

The Senate Interim Committee on Natural Resources



**Interim Report
to the 77th Legislature**

***Opportunities and Challenges
Facing the Texas Coastal Region***

November 2000

TEXAS SENATE NATURAL RESOURCES COMMITTEE

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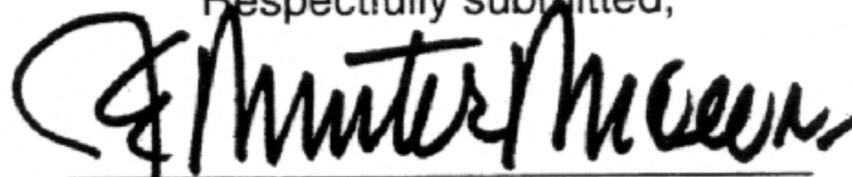
November 1, 2000

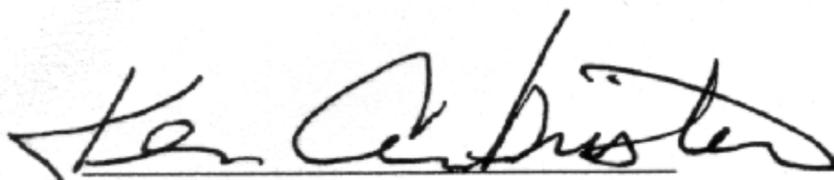
The Honorable Rick Perry
Lieutenant Governor of Texas
Members of the Texas Senate
Texas State Capitol
Austin, Texas 78701

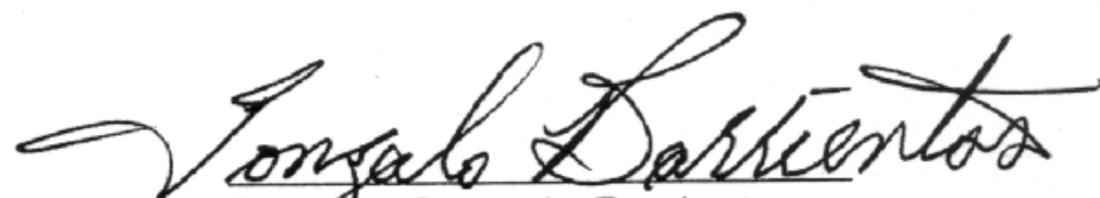
Dear Governor Perry and Fellow Members:

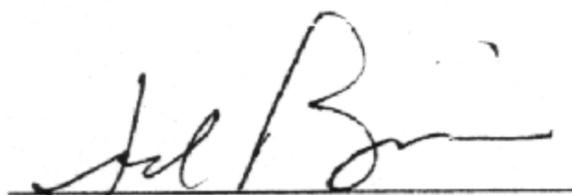
The Committee on Natural Resources of the Seventy-Sixth Legislature hereby submits its interim report including findings and recommendations for consideration by the Seventy-Seventh Legislature.

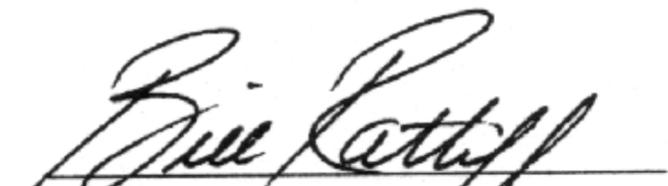
Respectfully submitted,

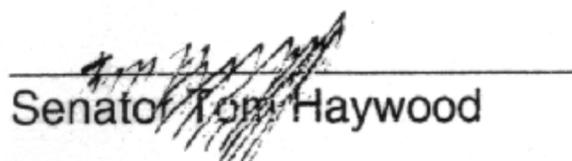

Senator J.E. "Buster" Brown, Chair

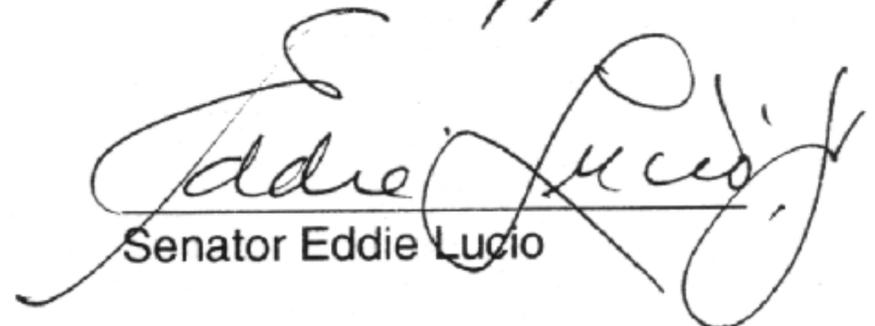

Senator Ken Armbrister, Vice-Chair


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All these elements of Nature's coastal bounty...taken together form an amazing aggregate, a massing of heterogeneous wealth, a storehouse of natural riches, diverse and abundant, for which it would be hard to find a parallel anywhere else in the world concentrated in so little room.

Roy Bedichek

KARANKAWAY COUNTRY--1950

Photo courtesy of the Dr. Fred'k McGregor Photo Collection
of the Corpus Christi Museum, Corpus Christi, Texas.



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ACRONYMS

CARA The Conservation and Reinvestment Act

CCC Coastal Coordination Council

CNRA Coastal Natural Resources Area

CZARA Coastal Zone Act Reauthorization Amendments of 1990

EOC Emergency Operations Center

EPA Environmental Protection Agency

GIS Geographical Information System

HAL Hazard Analysis Laboratory

HRRC The Hazard Reduction and Recovery Center

MAS Marine Advisory Service

NOAA National Oceanic and Atmospheric Administration

OCS Outer Continental Shelf

TCMP Texas Coastal Management Plan

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INTRODUCTION

More than one-quarter of Texas' permanent residents live within the 18 counties that lie adjacent to the Gulf of Mexico.¹ With the projected population growth and its anticipated concentration, either by residency or visitation within the coastal region, the competition for coastal resources and impact of coastal hazards will intensify. Urban sprawl, conservation and environmental initiatives, quality and quantity of fresh water and clean air, and other quality of life issues have impacted traditional economic activities such as agriculture, commercial and recreational fisheries, petrochemical production, oil refining, and port operations. Over the past few decades, the state leadership has responded to public concerns through actions such as statewide water planning initiatives, proactive efforts to ensure high quality air and water, progressive management of commercial and recreational fishing activities, establishment of the coastal management program, directing state agencies to focus on coastal issues, and initiation of more public involvement into developing responses to coastal issues.

The Texas Artificial Reef Program is a good example of how a program can turn a coastal challenge into a coastal opportunity. Through legislative authority, this program was established to take the Gulf of Mexico oil platforms that had completed their usefulness to the offshore oil industry and, through the Texas Parks and Wildlife Department and its associated advisory panel, convert these structures to valuable fishery habitat to be enjoyed by various user groups, but most importantly the resident marine life.

¹ Projections of the Population for Texas and Counties in Texas by Age, Sex, and Race/Ethnicity for 1990-2030, Population Estimates and Projections Program; Texas State Data Center and The Center for Demographic and Socioeconomic Research and Education, Department of Rural Sociology, Texas Agricultural Experiment Station, Texas A&M University System. May 2000.

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Such a progressive program sets the standard for the theme of this interim study report which initiates an active pursuit to apply adequate resources to the Texas coastal area to ensure that all its potentials can be realized while preserving a healthy environment and public safety.

INTERIM CHARGE

The Senate Committee on Natural Resources (“the Committee”) was charged by Lieutenant Governor Rick Perry to identify and characterize opportunities and challenges facing the Texas Coastal Region, recognizing that the Region will experience significant population growth and economic development within the state’s foreseeable future. The Committee was further directed to recommend strategies to ensure progress in the Coastal Region without diminishing the quality of life and natural resources within the Region. The Committee held public hearings in Austin, Amarillo, Victoria, San Antonio, El Paso, Houston, Galveston, Midland, Dallas, Brownsville, and Corpus Christi to receive testimony from witnesses interested in this charge. Specific testimony covering the parameters of this charge was received at Austin, Victoria, Galveston, Brownsville, and Corpus Christi.

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BACKGROUND

Texas has a 367-mile coastline bordering the Gulf of Mexico with a total shoreline including islands and bays of approximately 3,300 miles.² The coastal area is the most biologically rich and ecologically diverse region of the state.³ The area includes barrier islands and peninsulas with sandy beaches, shallow bays and lagoons bordered by marshes and tidal flats, uplands ranging from humid forested areas in the Northeast to fertile coastal prairies along the central portion and semi-arid brush country at the southwestern extreme. Unique to the nation, the jurisdiction of the state extends a distance of three leagues or nine nautical miles (10.3 statute miles) offshore. The standard jurisdiction limitation is three nautical miles with the Florida West Coast also having a three-league boundary. Of the estimated state population of 20 million, slightly over 25 percent live within the 18 county coastal region. In the next ten years, this population is estimated to increase more than 13 percent to a population above 5.8 million.⁴

Texas leads the nation in marine commerce, with 12 deep-draft ports, 15 shallow-draft ports, extensive barge facilities and 426 miles of the Gulf Intracoastal Waterway. The upper Texas coastal region includes an estimated 250 chemical plants, 30 refineries and 74 gas processing plants.⁵ These facilities supply nearly two-thirds of the nation's

² Gulfwatch, National Association of Conservation Districts, Vol.10 No. 2, Summer 1999.

³ Rayburn, Ralph. Interview. Austin, Texas. August 2000.

⁴ Projections of the Population for Texas and Counties in Texas by Age, Sex, and Race/Ethnicity for 1990-2030, Population Estimates and Projections Program; Texas State Data Center and The Center for Demographic and Socioeconomic Research and Education, Department of Rural Sociology, Texas Agricultural Experiment Station, Texas A&M University System. May 2000.

⁵ Holley, Joe, Texas Coast Owner's Manual, Texas General Land Office,
(continued...)

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petrochemical needs and 20 percent of the United States' oil refining capacity. Approximately 80% of all imported goods coming through a Texas port remain in Texas. In addition, Texas is a major seafood-producing state generally ranking in the top five of all states based on the value of the catch. Through enlightened management of marine fishery resources, the state also boasts a thriving recreational fishing industry contributing to the economic vitality within coastal communities and, inspiring the estimated \$11.4 billion coastal tourist trade making this area the state's second most popular vacation destination.⁶

Finally, a substantial agricultural industry has developed within the coastal region producing impressive quantities of cattle, rice, cotton, citrus, sorghum and winter vegetables. Joining with these traditional agricultural enterprises is the largest acreage of shrimp and red drum aquaculture ponds in the nation.

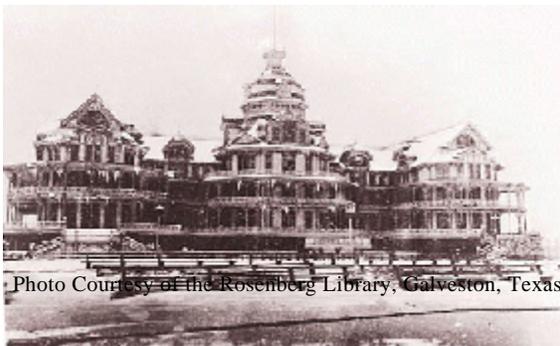


Photo Courtesy of the Rosenberg Library, Galveston, Texas.

The Beach Hotel--Galveston, Texas
during a snow storm. 1895.

⁵(...continued)

March 1997.

⁶ Dewhurst, David, Commissioner, Texas General Land Office, in public testimony before the Texas Sunset Advisory Commission, June, 2000.

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***The Coastal Management Program is a shining
example of Abraham Lincoln's wish for government
'By the People.'***

Jim Hiney

EDITOR, TEXAS SHORES MAGAZINE

Coordination among agencies will become more complex as issues expand to meet the continuing impact to the coastal region. Under the Coastal Coordination Act of 1991, the Texas Legislature established the Coastal Coordination Council (CCC)⁷ (See Appendix A for the Coastal Coordination Act) to develop a coastal management program for approval under the Federal Coastal Zone Management Act (See Appendix B for the Federal Coastal Zone Management Act). In 1995, the Texas Coastal Management Program (TCMP) was reviewed by the Texas Legislature, and the CCC structure was modified. Governor George W. Bush stated that the Texas Coastal Management Program would "bring a coordinated approach to managing Texas' coastal resources without imposing unnecessary regulations on Texans."⁸

As developed, the TCMP seeks to improve management of the state's coastal resources and to ensure the long-term ecological and economic productivity of the coast, within the

⁷ Coastal Coordination Act, 1996 INTERIM UPDATE, added by Acts 1995, 74th Leg., ch. 416, Sec. 4, eff. June 8, 1995.

⁸ Letter from Governor George W. Bush to D. James Baker, Under Secretary and Administrator of the National Oceanic and Atmospheric Administration, submitting the Texas Coastal Management Program for the federal approval process (October 19, 1995).

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framework of the federal Coastal Zone Management Program. Specific goals of the program included:

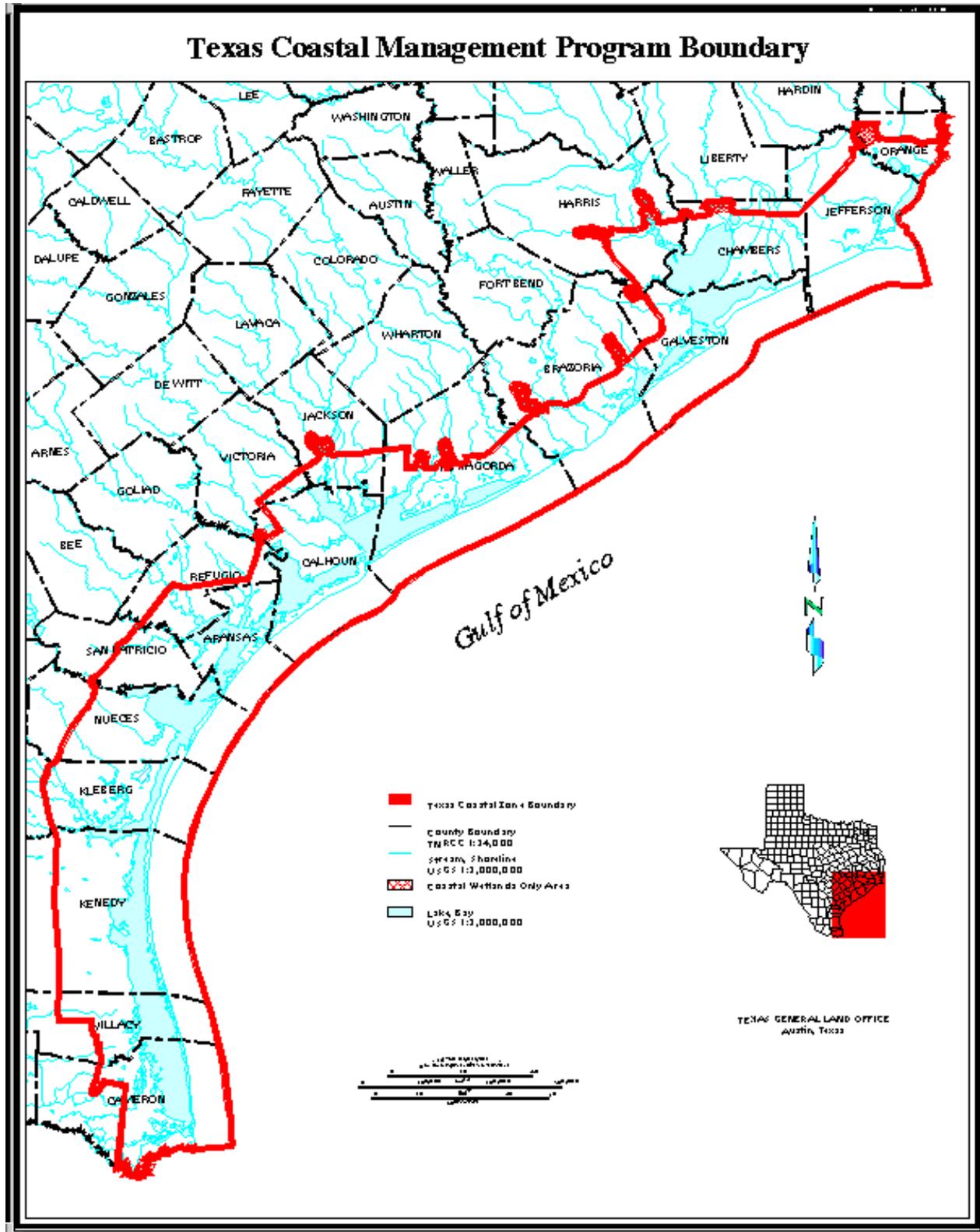
1. to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of the Coastal Natural Resource Areas (CNRA's). CNRA's are areas designated by the program requiring special management attention;
2. to ensure sound management of all coastal resources by allowing for compatible economic development and multiple human uses of the coastal zone;
3. to minimize loss of human life and property due to the impairment and loss of protective features of CNRA's;
4. to ensure and enhance planned public access to and enjoyment of the coastal zone in a manner that is compatible with private property rights and other uses of the coastal zone;
5. to balance the benefits from economic development and multiple human uses of the coastal zone, the benefits from protecting, preserving, restoring, and enhancing CNRA's, the benefits from minimizing loss of human life and property, and the benefits from public access to and enjoyment of the coastal zone;
6. to coordinate agency and local government decision-making affecting CNRA's by establishing clear, objective policies for the management of CNRA's;
7. to make agency and local government decision-making affecting CNRA's efficient by identifying and addressing duplication and conflicts among local, state, and federal regulatory and other programs for the management of CNRA's;

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8. to make agency and local government decision-making affecting CNRA's more effective by employing the most comprehensive, accurate, and reliable information and scientific data available and by developing, distributing for public comment, and maintaining a coordinated, publicly accessible geographic information system of maps of the coastal zone and CNRA's at the earliest possible date;
9. to make coastal management processes visible, coherent, accessible, and accountable to the people of Texas by providing for public participation in the ongoing development and implementation of the TCMP; and
10. to educate the public about the principle coastal problems of state concern and technology available for the protection and improved management of CNRA's.⁹

⁹ National Oceanic Atmospheric Administration, State of Texas Coastal Coordination Council, Texas Coastal Management Program: Draft Environmental Impact Statement (June 1996).

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As developed and incorporated in the plan, the Texas Coastal Zone Management program is termed a "networked" program because, it has been implemented primarily by eight state agencies, 18 local governments, and the CCC. Implementation and enforcement of the coastal policies is the responsibility of the networked agencies and local governments through their existing statutes, regulatory programs, or other authorizations. The CCC was established to develop and oversee the Texas program. The Commissioner of the General Land Office was designated as the chair of the Council which included representatives of the Texas Parks and Wildlife Department, the Texas Natural Resource Conservation Commission, the Texas Transportation Commission, the Texas Water Development Board, the Railroad Commission of Texas, the State Soil and Water Conservation Board, and four gubernatorial appointees. The gubernatorial appointees were to include a local elected official from the coastal area, a resident of the coastal area, a coastal business person, and a representative of agriculture.¹⁰

The five primary issues of concern to coastal communities outlined in the Texas Coastal Management Program were the focus of the Council to include:



- coastal erosion,
- wetlands protection,
- water supply and water quality,
- dune protection, and
- shoreline access.

¹⁰ General Land Office website. www.glo.state.tx.us/coastal/ccc.

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The Council was also responsible for adopting uniform goals and polices to guide the decisions made by entities regulating or managing natural resource use in the coastal zone and to review actions taken by entities that could have a negative impact on coastal resources. The Texas program would also work to avoid duplication of effort and conflicts in agency policies and regulatory decisions. In addition to the networked agencies and the Council, several committees assist with the implementation of the program. These committees were established to help with the development of the program and some were continued during program implementation to improve interagency coordination, distribution of program information, and help mediate disputes.

Under the Coastal Zone Management Program, Texas is eligible to receive approximately \$2.2 million annually. The funding will be used to address seven broad priorities:

1. Coastal natural hazards response;
2. Critical areas enhancements;
3. Shoreline access;
4. Waterfront Revitalization and Ecotourism Development;
5. Permit streamlining, assistance and governmental coordination;
6. Information and data availability; and
7. Public education and outreach.¹¹

The National Oceanic and Atmospheric Administration approved the Texas program in 1997. The CCC is now the entity in Texas that administers the Coastal Management Program by an organizational structure that links seven natural resource agencies with four public members appointed by the Governor. The state agencies involved include

¹¹ *Texas Coastal Management Program Grants Program*, General Land Office, May 24, 2000. www.glo.state.tx.us/coastal/grants/index.html.

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the General Land Office, Water Development Board, Texas Natural Resource Conservation Commission, Texas Transportation Commission, State Soil and Water Conservation Board, Texas Parks and Wildlife Commission and the Texas Railroad Commission. Texas is now working on the nonpoint source pollution control requirements of Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA).¹² The Commissioner of the Texas General Land Office stated in a letter to the National Oceanic and Atmospheric Administration that Texas believes the existing state authorities and programs for the control of nonpoint source pollution are sufficient to meet the requirements of Section 6217. The Commissioner indicates Texas "commits to submit to NOAA and EPA a complete coastal nonpoint program within thirty months of CMP approval. If NOAA and EPA find, at that time, that Texas has failed to submit an approvable coastal nonpoint program, state law directs the governor to withdraw the CMP from the National Coastal Zone Management Program."¹³

CHALLENGES

The broad challenges related to the coast are identified in the context of coastal issues. Within the number of interim study charges issued to the Committee several, such as groundwater, air quality, port development, and the missions and roles of Texas river authorities, have a potential for overlap with the coastal issues study. In the Committee's public hearings focusing on the coast, several issues or challenges were

¹² Coastal Zone Management Act of 1972. The Act and amendments of 1990 can be found at www.gsa.gov/pbs/pt/call-in/coastal.htm.

¹³ Letter from Garry Mauro, Commissioner of the Texas General Land Office, to Jeffrey Benoit, Director of the Office of Ocean and Coastal Resource Management, National Oceanic Atmospheric Administration (June 6, 1996).

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identified. These included issues addressed by state agency representatives to include coastal erosion, freshwater inflows, loss of coastal habitat, fishery management both by state and federal regulators, restricted marine aquatic areas to protect sea grass, and consideration of long-term impacts of traditional activities along the coast such as trawling, beach use and residential construction/development. During the course of the study, the Texas Parks and Wildlife Department initiated procedures for modification to various regulations related to shrimp management. This action led to the committee hearing testimony by both proponents and opponents of the Department's proposals. The Texas Parks and Wildlife Commission adopted on Aug. 31, 2000, a set of regulations state officials contend is a much-needed step toward long-term sustainability for Texas' shrimp fishery and additional conservation of other marine resources. In passing the rule changes, the commission directed Texas Parks & Wildlife staff to develop a coast-wide study of the shrimp industry to determine the economic and biological impacts of the new regulations.¹⁴ (The actual rule can be found in Appendix C).

¹⁴ *New Shrimp Rules Provide Resource Protection, Sustainability*, Texas Parks and Wildlife Press Release, September 1, 2000, www.tpwd.state.tx.us/news.

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Eroded shoreline on Caplen Beach.
July, 1995.

Photo Courtesy of Katie Oxford, Houston, Texas.

As a supplement to the information received through invited and public testimony, staff of the Committee worked with the Texas Sea Grant College Program located at Texas A&M University to survey local leaders in coastal areas on their views of coastal issues. A total of 91 surveys were distributed to coastal county judges, mayors and chambers of commerce. A return rate of 44 percent was realized, spread relatively equally among each class surveyed.

This was not meant to be a comprehensive survey of issues, but rather this instrument was designed to assist in the validation of coastal issues that may not otherwise be identified in the Committee's public hearings. In general, the survey affirms that the coastal related issues of most agreement and highest priority as identified by the local leadership are water quality; tourism development; youth and general public education on natural resources; and beach erosion.¹⁵(A summary of the survey as well as the mailing list is included in this report as Appendix D).

From both the testimony and the findings from the informal survey, coastal issues can be roughly broken into five categories, namely:

- economic development;
- conservation of natural resources;
- public health and safety;
- education on coastal resources/issues; and

¹⁵ Rayburn, Ralph.. Interview. Austin, Texas. August 2000.

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population growth and urban sprawl.

Reflected within these categories are challenges dealing with:

tourism;
ports;
commerce;
industrial development;
water quality and quantity;
conservation of marine fisheries resources;
air quality;
beach protection and access;
hazard preparation, response and recovery; and
infrastructure development to support projected growth.

Both the survey and the public testimony validated the sub-issues within these overall categories.

Input from the survey as to the priority of each of these categories ranks in the order of:

1. conservation of natural resources;
2. economic and infrastructure development;
3. public health and safety; and
4. education on coastal issues and resources.

Based on the topics covered in the public testimony this ranking would generally hold true.¹⁶

¹⁶ Sea Grant Texas. "Coastal Issues Identification and Validation Survey Summary". June 2000. p. 1-2.

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During the course of the study the Committee heard testimony on the United States Congress deliberation of various pieces of legislation that would direct revenue from oil and gas activities on the Outer Continental Shelf to the states. The principal legislation given the title of “The Conservation and Reinvestment Act” (CARA) was filed in each chamber within both the 105th and the 106th Congress. The testimony described the various titles of the legislation, provided its legislative status, and analyzed its potential impact to Texas both in relation to coastal issues and natural resources management. During the 76th Texas Legislative session, HCR 59 was passed memorializing Congress to pass this type legislation. (see Appendix E for the text of HCR 59.) House of Representative Bill 701 of the 106th Congress, relating to CARA, passed the House on May 11, 2000, as amended and is currently pending on the Senate Legislative Calendar under General Orders, Calendar No. 804, as of September 14, 2000. (See Appendix F for summary text of HR 701 as amended).

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OPPORTUNITIES

What I've learned over the years is that the Texas Gulf Coast belongs to all of us, and it's up to us to take an active proprietary interest in its preservation and protection. It's up to us to keep the beaches clean, the waters pure and the wetlands healthy. We Texans who care for the coast have a job to do, and we can't let up.

A. R. "Babe" Schwartz

FORMER STATE SENATOR - GALVESTON

State agencies were invited to present testimony on their particular issues and responsibilities within the coastal area as well as resources that they possess to support state and local entities in dealing with the challenges within the coastal area. While most of the agencies invited to testify on this charge were natural resource agencies including the Texas Natural Resource Conservation Commission, General Land Office, Texas Parks and Wildlife Department, other entities such as the Governor's Division of Emergency Management and the Texas Sea Grant College Program provided invited testimony and other input to the study.

Within the state government structure there appears to be adequate missions allocated to agencies and other state organizations to meet the challenges of the coastal area. It was noted that many of the natural resources agencies as well as the Coastal Coordination Council (CCC) housed in the General Land Office are under sunset review during this interim. This study was therefore recognized as timely in that any needed changes to agency organization or mission could be considered under the review of its organic structure and regulatory authority. During its hearings in Houston and

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Galveston, the Committee was briefed by both the Chairman and Executive Director of the Sunset Advisory Commission to ensure the members and staff were familiar with the process and time frames within which the Commission intends to operate.

While responsibilities seem adequately vested in state agencies, the coordination among those agencies appears to be an area that could be enhanced. It was pointed out in testimony that the Coastal Coordination Council, with its structure of seven agency heads as well as four public members appointed by the Governor, provides a suitable venue for the coordination of coastal issues. Initially created to develop the state's Coastal Zone Management Plan, the Coastal Coordination Act¹⁷ was modified in 1995 to change the membership of the Council. Within the Sunset Advisory Committee staff report on the CCC a recommendation was made to expand the membership to provide for more public input. It was also recommended in testimony to the Committee that consideration be given to include a representative of higher education on the CCC, specifically the Director of the Texas Sea Grant College Program that currently serves as a focus of coastal and marine research among the state's universities.

¹⁷ Coastal Coordination Act. Natural Resource Code Chapter 33 Management of Coastal Public Land., Subchapter F § 33.201.

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<p style="text-align: center;">Recommendations adopted by the Sunset Advisory Committee</p>
<p>Continue the Coastal Coordination Council for 12 years.</p>
<p>Add two members to the Council to increase public and local government representation.</p> <ul style="list-style-type: none"> • One member with a demonstrated interest in coastal conservation. • One local government elected official who resides in the coastal region.
<p>Remove the requirement that advisory committee members reside in the coastal region.</p>
<p>Allow any member of the Council to refer a consistency issue to the full Council.</p>
<p>Rather than requiring at least one open agenda meeting a year, the Council should set aside time during all regular Council and Executive Committee meetings for public comment on any coastal issue. (as recommended by Commissioner David Dewhurst, Chairman, Coastal Coordination Council)</p>
<p>Add the Council's grant-making responsibility to its enabling law. This recommendation would codify the Council's current practice of selecting recipients for Coastal Management Program grants, but would not affect the General Land Office's designation as the point of accountability for federal oversight purposes. This recommendation would authorize the Coastal Coordination Council to award grants, beyond its current Coastal Management Program, if and when additional funds become available for any project that furthers the goal of protecting and preserving the State's coastal natural resources.</p>
<p>The Coastal Coordination Council should target current grant dollars to more projects that promote conservation and preservation of coastal natural resource areas.</p>

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The Coastal Coordination Council should seek to maximize federal funds for the conservation of coastal resources.

Require the Council to submit a biennial "State of the Coast" report prior to each legislative session to highlight population growth, infrastructure needs, and use of resources on the coast. (as recommended by Ralph Rayburn, Associate Director - Sea Grant Texas, Bryan)¹⁸

As well as the recommendations listed above, the Sunset Advisory Commission adopted Across-The-Board Recommendations. They are as follows:

Across-The-Board Recommendations	
Sunset Advisory Commission	
1.	Require at least one-third public membership on state agency policymaking bodies.
2.	Require specific provisions relating to conflicts of interest.
3.	Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
4.	Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
5.	Specify grounds for removal of a member of the policymaking body.
6.	Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
7.	Require training for members of policymaking bodies.

¹⁸ *Coastal Coordination Council Sunset Staff Report*. Sunset Advisory Commission. May 2000. p. 3-13.

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8.	Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
9.	Provide for public testimony at meetings of the policymaking body.
10.	Require information to be maintained on complaints.
11.	Require development of an equal employment opportunity policy. ¹⁹

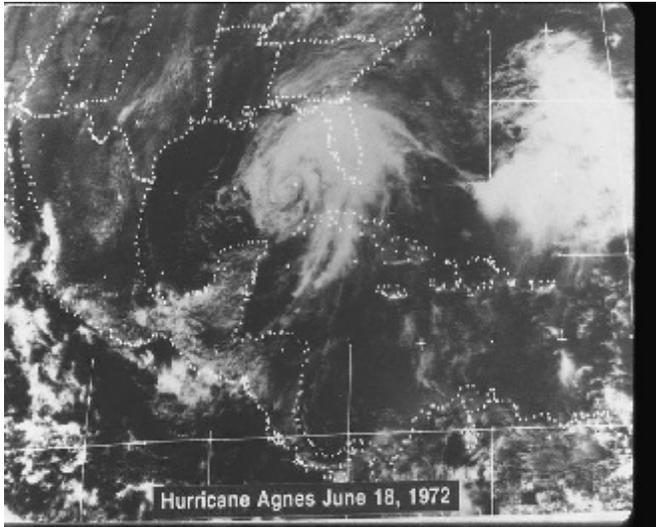
Within the mission of the CCC is the charge of “continually reviewing the principal coastal problems of state concern, coordinating the performance of government programs affecting coastal natural resources areas, and coordinating the measures required to resolve identified coastal problems.”²⁰ This directive provides an opportunity to continue the efforts of this study and ensure that coastal issues and available resources to cope with them will be brought to the attention of the state leadership.

Authority is given within the CCC’s enabling legislation for the appointment of an advisory committee to advise the Council and the General Land Office on coastal management issues. However, restrictions are placed on the advisory committee’s membership that restrict it to coastal residents. While not necessarily the expressed reason, the CCC has chosen not to appoint an advisory committee beyond those statutorily directed. This committee membership restriction was considered by the Sunset Advisory Commission with a recommendation that it be lifted. If removed through

¹⁹ *Coastal Coordination Council Sunset Staff Report*. Sunset Advisory Commission. May 2000. p. 19.

²⁰ Natural Resources Code. Chapter 33 Management of Coastal Public Land, Subchapter F. § 33.202(1).

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Hurricane Agnes approaching the Gulf Coast --June 18, 1972.

legislative action, an opportunity to focus a greater diversity and expertise into coastal issues could be achieved.

During the course of the study, representatives of the Texas Natural Resource Conservation Commission, General Land Office, Texas Parks and Wildlife Department, Department of Transportation, and the Sea Grant College Program met along with representatives of the Galveston Bay Estuary Program and the Coastal Bend

Bay Estuary Program to review the various programs that agencies currently offer to support coastal initiatives. The result of this meeting, initiated by staff at the Texas Natural Resource Conservation Commission, was a new awareness of the funding activities underway within sister agencies and a greater appreciation for the potential of complementary initiatives. While the representatives agreed that such a meeting was productive, the need for a more formal venue was recognized. An advisory committee to the CCC might provide such an opportunity should the requirement of coastal residency restriction be repealed.

The Committee received testimony on the issue of coastal hazards resulting from natural incidents such as hurricanes. From a historical perspective, the state ranks second in the nation in the number of hurricane hits; of the ten most significant storms, four have hit Texas. Concern was expressed in consideration of the inevitability of future storms and anticipated increase in coastal population. During the 76th Legislative Session,

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SCR 68 passed creating an interim study committee to coordinate emergency efforts during floods and other natural disasters. (see Appendix G for a complete listing of SCR 68). SCR 68 also created a blue ribbon panel to examine ways to improve coordination of disaster related activities in conjunction with the floods of October 1998.

The emergency management statutes are found in the Government Code Chapter 418. Among the provisions of this chapter is a directive to the Division of Emergency Management that it “take an integral part in the development and revision of local and interjurisdictional emergency management plans.”²¹ Furthermore, allowance is made for the division to employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to the political subdivision.²²



Flooded houses from hurricane rains.

The Hazard Reduction and Recovery Center (HRRC) is an entity within the state that could, with adequate resources, expand its assistance to political subdivisions for hazard vulnerability analyses and hurricane preparedness. Established at Texas A&M University in 1988, the HRRC researchers focus on hazard analysis, emergency preparedness and

²¹ Division of Emergency Management. Government Code § 418.013. Emergency Management Council

²² id.

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response, disaster recovery, and hazard mitigation.²³ Studies include the full range of both natural disasters and technological hazards. During activation of the State's Emergency Operations Center (EOC) the HRRC supplies a team of research scientists to the EOC to prepare storm intelligence information as well as analyze potential storm impacts.²⁴ The core functions during emergency situations remain at the Hazard Analysis Laboratory (HAL) which is an element of the HRRC. Utilizing the geographical information system (GIS), the HAL provides the state and local leaders with real time information on the approaching storm. The cadre of the HRRC consists of geographers, urban planners, architects, construction scientists, civil engineers and sociologists.²⁵ Providing these resources to local leaders in the formulation of hazard vulnerability analyses and emergency planning would be a significant opportunity to link the local emergency management plans more completely with the state's plans.



Another element in the mix to fulfill the directive of the study “to ensure progress in the Coastal Region without diminishing the quality of life and natural resources within the Region” is the Texas Sea Grant College Program (“The Program”). The Program is a partnership of universities, government and industry, focusing on marine research, education and outreach. Nationally, Sea Grant began in 1966 when Congress passed the National Sea Grant College and Program Act. Patterned after the Land Grant Act

²³ Hazard Reduction and Recovery Center at Texas A&M University's website. hrrc.tamu.edu/hrrc/Scope/WHATHRRC.HTML

²⁴ id.

²⁵ id.

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of the 1860's, the Sea Grant Program is a practical, broad-based effort committed to the wise use and conservation of marine resources through research, education, extension, and information transfer.²⁶ In 1971, Texas A&M was designated as a Sea Grant College and has focused on coastal and marine challenges and opportunities using the format from its history as the state's Land Grant College. With its three-pronged mission of research, education and outreach, the Sea Grant Program has established linkages with the state's universities, the public at large, and local leaders.

The Marine Advisory Service (MAS) supported by the Sea Grant College Program in cooperation with the Texas Agricultural Extension Service, provides a system of county extension agents specifically trained to deal with coastal and marine issues at the county and local level.²⁷ In addition, the MAS includes marine specialists experienced in issues such as seafood quality and marketing, environmental resources, marine fisheries, marine education, aquaculture and marine business.

These specialists serve as resources to the county marine agents as well as carry out their own individual programs.²⁸ Currently the MAS has six county agents assigned to seven coastal counties. This coverage is only 39 percent of the coastal counties and 23 percent of the coastal population in Texas.²⁹ Furthermore marine and coastal specialty areas focused on outdoor recreation, tourism and economic development, and coastal engineering could provide additional opportunities for assistance to local governments in managing the issues along the coast not currently covered by the seven specialists

²⁶ Rayburn, Ralph.. Interview. Austin, Texas. August 2000.

²⁷ Sea Grant Marine Advisory Service website.
texas-sea-grant.tamu.edu/mas.html

²⁸ id.

²⁹ id.

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available. This MAS network, based on the successful format of the Cooperative Agricultural Extension Service, constitutes a unique infrastructure to provide support and expertise to local decision-makers in the coastal area. Among local leadership many of the MAS staff are seen as the “go to folks” on coastal items however, with additional resources or a pay-as-you-go type system their abilities could be greatly enhanced.

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RESULTS OF THE COMMITTEE HEARINGS

This interim charge, while available for public comment at each Committee hearing, was a focus for the Committee at the following meetings:

Austin, TX	September 29, 1999
Victoria, TX	November 22, 1999
Galveston, TX	March 8, 2000
Brownsville, TX	May 12, 2000
Corpus Christi, TX	June 29, 2000

The submitted written testimony is incorporated into this report. Oral testimony is available on the Senate's archived audio of the committee's hearings at www.senate.state.tx.us.

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CONCLUSIONS/RECOMMENDATIONS

The Senate Natural Resources Committee received eight interim charges for the 1999-2000 legislative interim period. Each of these charges was complex and focused on issues key to the economic vitality and quality of life experienced by all Texans. In his charge, the Lieutenant Governor showed vision in directing the Committee to consider both the opportunities and challenges facing the Texas Coastal Region. In its review of this matter, the Committee heard testimony from state agencies, coastal industries, interest groups, and the public at large. In the course of the testimony and other findings of the Committee it is recognized that the coastal area of Texas provides unique complexities to both state and local leaders.

Based on its findings, the Committee has the following recommendations:

1. Recognize the Coastal Coordination Council as the state entity to provide focus for coastal issues. In this regard, monitor the implementation of the recommendations of the Sunset Advisory Commission that is currently reviewing the Council and has made proposals to remedy issues identified.
2. Continue to work with the state's Congressional Delegation to enhance the states' share of revenue from oil and gas activities on the Outer Continental Shelf (OCS) and, the Conservation and Reinvestment Act (CARA) to be spent on coastal issues.
3. Provide resources to fulfill the requirements under the state's emergency management provisions within the Government Code to enhance the hazard vulnerability analysis and emergency planning processes undertaken by political subdivisions.
4. By focusing on the Texas Sea Grant College Program, integrate the assets of the state's higher education resources into the planning, coordination and research efforts on coastal challenges and opportunities.

5. Establish a systematic review by the legislature of the resources applied to coastal issues through the administration of state development grants, impact mitigation funds, and research and outreach education programs.
6. Establish a pay-as-you-go system for Emergency Analysis and Agriculture Extension service to small counties.
7. Monitor Texas Parks and Wildlife Department's "coast-wide" study of the shrimp industry intended to determine the economic and biological impacts of their new regulations. Use this information to develop long-term sustainability plans for shrimp and other resources to avoid, if possible, future discords between industry and conservationists.



APPENDIX A

Coastal Coordination Act

§ 33.001. Policy

(a) The surface estate in the coastal public land of this state constitutes an important and valuable asset dedicated to the permanent school fund and to all the people of Texas, and it is the declared policy of this state that the estate be managed pursuant to the policies stated in the following subsections of this section.

(b) The natural resources of the surface estate in coastal public land shall be preserved. These resources include the natural aesthetic values of those areas and the value of the areas in their natural state for the protection and nurture of all types of marine life and wildlife.

(c) Uses which the public at large may enjoy and in which the public at large may participate shall take priority over those uses which are limited to fewer individuals.

(d) The public interest in navigation in the intracoastal water shall be protected.

(e) Unauthorized use of coastal public land shall be prevented.

(f) Utilization and development of the surface estate in the coastal public land shall not be allowed unless the public interest as expressed by this chapter is not significantly impaired by it.

(g) For the purposes of this chapter, the surface estate in coastal public land shall not be alienated except by the granting of leaseholds and lesser interests and by exchanges of coastal public land for littoral property as provided in this chapter.

(h) Vested rights in land shall be protected, subject to the paramount authority of the state in the exercise of police powers to regulate the exercise of these rights, and the orderly use of littoral property in a manner consistent with the public policy of this state shall not be impaired.

Acts 1977, 65th Leg., p. 2382, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.002. Purpose

The purpose of this chapter is to implement the policies stated in Section 33.001 of this code by delegating to the board, assisted by the planning division and other staff of the land office, certain responsibilities and duties with respect to the management of the surface estate in coastal public land.

Acts 1977, 65th Leg., p. 2383, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.003. Short Title

This chapter may be cited as the Coastal Public Lands Management Act of 1973.

Acts 1977, 65th Leg., p. 2383, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.004. Definitions

In this chapter:

(1) "Land office" means the General Land Office.

(2) "Commissioner" means the Commissioner of the General Land Office.

(3) "Board" means the School Land Board.

(4) "Person" means any individual, firm, partnership, association, corporation which is public or private and profit or nonprofit, trust, or political subdivision or agency of the state.

(5) "Coastal area" means the geographic area comprising all the counties in Texas which have any tidewater shoreline, including that portion of the bed and water of the Gulf of Mexico within the jurisdiction of the State of Texas.

(6) "Coastal public land" means all or any portion of state-owned submerged land, the water overlying that land, and all state-owned islands or portions of islands in the coastal area.

(7) "Island" means any body of land surrounded by the water of a saltwater lake, bay, inlet, estuary, or inland body of water within the tidewater limits of this state and shall include man-made islands resulting from dredging or other operations.

(8) "Management program" means the coastal management program provided by this chapter.

(9) "Seaward" means the direction away from the shore and toward the body of water bounded by the shore.

(10) "Structure" means any structure, work, or improvement constructed on, affixed to, or worked on coastal public land, including fixed or floating piers, wharves, docks, jetties, groins, breakwaters, artificial reefs, fences, posts, retaining walls, levees, ramps, cabins, houses, shelters, landfills, excavations, land canals, channels, and roads.

(11) "Submerged land" means any land extending from the boundary between the land of the state and the littoral owners seaward to the low-water mark on any saltwater lake, bay, inlet, estuary, or inland water within the tidewater limits, and any land lying beneath the body of water, but for the purposes of this chapter only, shall exclude beaches bordering on and the water of the open Gulf of Mexico and the land lying beneath this water.

(12) "Littoral owner," in this chapter only, means the owner of any public or private upland bordered by or contiguous to coastal public land.

(13) "Council" means the Coastal Coordination Council.

(14) "Coastal zone" means the portion of the coastal area located within the boundaries established by the coastal management program under Section 33.053(a)(1).

Acts 1977, 65th Leg., p. 2383, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1995, 74th Leg., ch. 416, § 1, eff. June 8, 1995.

§ 33.005. Effect of Chapter

(a) This subchapter does not repeal Subchapter B, Chapter 436, Health and Safety Code, or the following provisions of the Parks and Wildlife Code: Chapters 83 and 86, Subchapter A of Chapter 46, Subchapter A of Chapter 76, Subchapter B of Chapter 81, Subchapter G of Chapter 82, Subchapter C of Chapter 216, or Sections 66.101, 66.107, 66.112 through 66.118, 66.205, 76.031 through 76.036, 78.001 through 78.003, 81.002, 136.047, 184.024, 201.015, or 335.025.

(b) None of the provisions of this chapter may be construed to alter, amend, or revoke any existing right granted pursuant to any law.

Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1991, 72nd Leg., ch. 14, § 284(100), eff. Sept. 1, 1991.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 33.011. Board to Administer, Implement, and Enforce Chapter

The board is the executive agency of the state charged with the administration, implementation, and enforcement of this chapter.

Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.012. Land Office to Assist Board

The planning division and other staff of the land office shall assist the board in the discharge of its responsibilities and duties under this chapter.

Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.013. Additional Personnel

The commissioner may employ any additional personnel in the land office that may be necessary for the board to perform effectively its functions under this chapter.

Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.014. Disposition of Money for Grants of Certain Interests

Money received by the board for grants of surface interests under this chapter whose initial term equals or exceeds 20 years

shall be deposited in the State Treasury to the credit of the permanent school fund.

Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.015. Special Account

(a) A dedicated account is created, and money received by the board for the grant of permits under this chapter shall be deposited in the State Treasury to the credit of this dedicated account.

(b) Sections 403.094(h) and 403.095(b), Government Code, do not apply to the dedicated account created under this section.

Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1993, 73rd Leg., ch. 991, § 9, eff. Sept. 1, 1993.

§ 33.016. Disposition of Other Funds

Money received by the board for the grant of any interest not under Section 33.014 or 33.015 of this code shall be deposited in the State Treasury to the credit of the available school fund.

Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

SUBCHAPTER C. POWERS AND DUTIES

§ 33.051. General Duty

The board, the council, and the land office shall perform the duties provided in this subchapter.

Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1991, 72nd Leg., ch. 295, § 33, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 416, § 2, eff. June 8, 1995.

§ 33.052. Development of Coastal Management Program

(a) The commissioner shall develop a continuing comprehensive coastal management program pursuant to the policies stated in Section 33.202 of this code. The program is not effective until approved by a majority of the council under Section 33.204 of this code.

Text of subsec. (b) as amended by Acts 1995, 74th Leg., ch. 165, § 22(52)

(b) In developing the program, the land office shall act as the lead agency to coordinate and develop a long-term plan for the management of uses affecting coastal conservation areas, in cooperation with other state agencies that have duties relating to

coastal matters, including the Parks and Wildlife Department, the attorney general's office, the Texas Natural Resource Conservation Commission, the Texas Water Development Board, the Texas Department of Transportation, and the Railroad Commission of Texas. The plan shall implement the policies stated in Section 33.001 of this code and shall include the elements listed in Section 33.053 of this code.

Text of subsec. (b) as amended by Acts 1995, 74th Leg., ch. 416, § 2

(b) In developing the program, the land office shall act as the lead agency to coordinate and develop a long-term plan for the management of uses affecting coastal natural resource areas, in cooperation with other state agencies that have duties relating to coastal matters, including those agencies represented on the council. The program shall implement the policies stated

in Section 33.202 of this code and shall include the elements listed in Section 33.053 of this code.

(c) The council may appoint and establish procedures for an advisory committee to advise the council and the land office on coastal management issues. The advisory committee may only include persons with expertise in coastal matters and persons who live in the Texas coastal area. A member of the advisory committee serves at the pleasure of the council. A member is not entitled to compensation for services performed as a member of the committee but may receive reimbursement from land office funds for actual and necessary expenses incurred in attending meetings of the advisory committee.

(d) For purposes of Subsections (a) and (b) of this section, "coastal natural resource areas" has the meaning assigned by Section 33.203 of this code.

(e) This section does not add to or subtract from the duties and responsibilities of a state agency other than the land office, the council, and the board.

Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1989, 71st Leg., ch. 1145, § 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 295, § 34, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 76, § 11.263, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 165, § 22(52), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 416, § 2, eff. June 8, 1995.

§ 33.053. Elements of Coastal Management Program

(a) The coastal management program, in compliance with the Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.), shall include the following elements:

(1) an identification of the boundaries of the coastal zone subject to the coastal management program as provided by Section 33.2053(k);

(2) a continuous analysis of the potential uses for the land and water within the coastal zone, including recommendations as to which configurations of uses consonant with the policies of this chapter maximize the benefits conferred on the present and future citizens of Texas;

(3) guidelines on the priority of uses within the coastal zone, including specifically those uses of lowest priority;

(4) a list of the uses of the land and water within the coastal zone that are permissible under state law and under agency or subdivision actions described by Sections 33.2051 and 33.2053 and that would have a direct and significant impact on the coastal waters;

(5) recommendations as to increments of jurisdiction or authority necessary to protect land and water within the coastal zone from direct and significant detrimental consequences flowing from the uses of adjacent land;

(6) an inventory of designated coastal natural resource areas, as defined by Section 33.203, in the coastal zone;

(7) a description of the organizational structure by which the coastal management program is implemented and administered;

(8) a compilation of state constitutional provisions, laws, rules, and judicial decisions under which the state proposes to exercise control over the uses of land and water described by Subdivision (4);

(9) a list of each agency or subdivision action, as described by Sections 33.2051 and 33.2053, that may have a direct and significant detrimental impact on coastal natural resource areas;

(10) a list of each federal agency action or activity and each outer continental shelf plan that may have a direct and significant detrimental impact on coastal natural resource areas;

(11) a procedure, as described under Sections 33.205, 33.2051, 33.2052, 33.2053, 33.206, 33.208, and 33.209, for determining the consistency of an agency or subdivision action or a federal agency action or activity or outer continental shelf plan with the goals and policies of the coastal management program;

(12) a definition of "gulf beach," as defined by Section 33.203, and a description of the statutory planning process or program for protection of and access to public beaches and other public coastal areas of environmental, recreational, historical, aesthetic, ecological, or cultural value;

(13) a description of the statutory planning process or program for energy facilities likely to be located in, or that may directly and significantly affect, the coastal zone;

(14) a description of the statutory planning process or program for:

(A) assessing the effects of shoreline erosion;

(B) studying and evaluating ways to control or reduce the impact of shoreline erosion; and

(C) restoring areas detrimentally affected by shoreline erosion;

(15) a description of the state's statutory program regulating nonpoint source water pollution, as it relates to the coastal zone; and

(16) an explanation of the relationship of specific policies of the coastal management program to:

(A) protection of resources;

(B) management of coastal development; and

(C) simplification of governmental procedures.

(b) For purposes of Subsections (a)(9) and (a)(11), "agency or subdivision action" has the meaning assigned by Section 33.203.

(c) For purposes of Subsections (a)(10) and (a)(11), "federal agency action," "federal agency activity," and "outer continental shelf plan" have the meanings assigned by Section 33.203.

Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1995, 74th Leg., ch. 416, § 2, eff. June 8, 1995.

§ 33.054. Review and Amendment of Management Program

The commissioner may review the management program periodically and may amend the management program as new information or changed conditions may warrant.

Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1991, 72nd Leg., ch. 295, § 35, eff. June 7, 1991.

§ 33.055. Public Hearings to Consider Coastal Management Program

In developing, reviewing, or amending the coastal management program, after due notice to affected persons and the public generally, the commissioner and the council shall hold or have held public hearings as the commissioner and the council determine to be appropriate.

Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1991, 72nd Leg., ch. 295, § 36, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 416, § 2, eff. June 8, 1995.

§ 33.056. Structures on Land Adjacent to Coastal Public Land

(a) On receipt of appropriate applications, the board shall register existing structures extending on coastal public land from adjacent land not owned by the state.

(b) Insofar as consonant with the policies of this chapter, the board may regulate the placement, length, design, and the manner of construction, maintenance, and the use of all structures which are built so that they extend on coastal public land from

adjacent land not owned by the state.

Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.057. Gifts of Interests in Land

(a) The board may accept gifts of interests in land, and these interests shall become part of the permanent school fund unless otherwise designated by the grantor.

(b) At the discretion of the board, the land may be managed as if it were coastal public land within the meaning of this chapter.

Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.058. Purchase of Fee and Lesser Interests in Land

(a) The board may select and purchase fee and lesser interests in land of the coastal area for the creation, maintenance, or protection of wildlife refuges, estuaries preserves, natural scenic reserves, historical or archaeological sites, public recreational areas, and research facilities.

(b) The interests may be purchased by the board with money acquired by gift or grant, but the interests may not be obtained by condemnation.

(c) Interests acquired under this section shall not become a part of the permanent free school fund unless they are so designated by the board.

(d) In the discretion of the board, the interests may be managed as if they were coastal public land within the meaning of this chapter regardless of whether they fall within the meaning of coastal public land.

Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.059. Studies

The board may study various coastal engineering problems, including the protection of the shoreline against erosion, the design and use of piers, groins, seawalls, and jetties, and the effects of various structures, works, and improvements on the physical and biological systems of the coastal public land.

Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.060. Locating and Marking Boundaries

The board may locate and have marked on the ground the boundaries separating coastal public land from other land.

Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.061. Complaints

(a) The board shall receive and evaluate any complaint or report from any person concerning instances of unauthorized construction, maintenance, use, or assertion of control of any structure on coastal public land.

(b) The board shall refer to the attorney general all cases warranting judicial remedies, and the attorney general shall immediately initiate judicial proceedings for the appropriate relief.

Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.062. Designated Official Representative

The board is designated and shall serve as the official representative of the governor of the state to conduct with the federal government any business concerning any matter affecting the coastal public land which arises out of the exercise by the federal government of any authority it may have over navigable water under the Constitution of the United States.

Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.063. Fees

The board may prescribe reasonable filing fees and fees for granting leases, easements, and permits.
Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.064. Rules

The board may adopt procedural and substantive rules which it considers necessary to administer, implement, and enforce this chapter.

Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

SUBCHAPTER D. RIGHTS IN COASTAL PUBLIC LAND

§ 33.101. Application to Acquire Rights in Coastal Public Land

Any person who desires to acquire rights in the surface estate in any coastal public land shall make application to the board in writing in the form prescribed by the board.

Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.102. Contents of Application

The application to acquire rights in coastal public land shall include:

- (1) an adequate legal description of the land in which the rights are sought;
- (2) a statement of the rights sought;
- (3) a statement of the purpose or purposes for which the land is to be used;
- (4) a description of the nature and extent of the improvements, if any, which will be made on the land;
- (5) an estimate of the time within which any improvements to be made will be completed; and
- (6) any additional information the board considers necessary, including, in the case of any application for approval of construction, modification, repair, or removal of a structure, a description of all plans for any filling, dumping, dredging, or excavating to be done.

Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.103. Interests Which May be Granted by the Board

The board may grant the following interests in coastal public land for the indicated purposes:

- (1) leases for public purposes;
- (2) easements for purposes connected with:
 - (A) ownership of littoral property; or
 - (B) the operation of a facility operated by an existing channel and dock corporation that was issued articles of incorporation under Chapters 13 and 14, Title 32, Revised Statutes;
- (3) permits authorizing limited continued use of previously unauthorized structures on coastal public land not connected with ownership of littoral property; and
- (4) channel easements to the holder of any surface or mineral interest in coastal public land for purposes necessary or appropriate to the use of the interests.

Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1985, 69th Leg., ch. 923, § 1, eff. Aug. 26, 1985.

§ 33.104. Processing Application

(a) On receiving an application, the board may circulate it for review and comment to the member agencies of the Interagency Natural Resources Council or its successor.

(b) The board shall determine whether the proposed application should be granted not less than 30 days nor more than 90 days after the application is received.

(c) If the application is granted, the board shall determine the reasonable term, conditions, and consideration for the grant and may consummate the transaction.

Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.105. Persons to Whom Land May be Leased

The board may lease coastal public land to:

- (1) the Parks and Wildlife Department or to any eligible city or county for public recreational purposes;
- (2) the Parks and Wildlife Department for management of estuaries preserves;
- (3) any nonprofit, tax-exempt environmental organization approved by the board for the purpose of managing a wildlife refuge; and
- (4) any scientific or educational organization or institution for conducting scientific research.

Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.106. Policies, Provisions, and Conditions of Leases

In addition to policies generally applicable under this chapter, leases granted under this subchapter shall be subject to the policies, provisions, and conditions stated in Sections 33.107 through 33.110 of this code.

Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.107. Protection of Rights

The littoral rights of the adjacent upland owner shall be protected in a lease.

Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.108. Rights of the Public

Members of the public may not be excluded from coastal public land leased for public recreational purposes or from an estuaries preserve.

Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.109. Counties and Cities Eligible to Lease Coastal Public Land

(a) A county is eligible to apply for a lease of coastal public land inside the county and outside the boundaries of any incorporated city, town, or village for public recreational purposes.

(b) An incorporated city, town, or village is eligible to lease coastal public land within its corporate boundaries for public recreational purposes.

Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.110. Contracts and Franchises

(a) With the approval of the board, a lessee granted a lease for public recreational purposes may enter into contracts and franchise agreements to promote public recreation.

(b) No contract or franchise agreement may authorize any commercial activity within 300 feet of privately owned littoral property without the written consent of the littoral owner of the property.

Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.111. Granting Easements

(a) The board may grant easement rights to the owner of adjacent littoral property authorizing the placement or location of a structure on coastal public land for purposes connected with the ownership of littoral property.

(b) The board may grant easement rights to construct channels, wharves, docks, and marinas to an existing corporation that was issued articles of incorporation under Chapters 13 and 14, Title 32, Revised Statutes.

(c) Notwithstanding any provision in its charter or articles of incorporation to the contrary, a corporation described in Subsection (b) of this section may only obtain the use of or acquire property from the state as provided by that subsection.

Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1985, 69th Leg., ch. 923, § 2, eff. Aug. 26, 1985.

§ 33.112. Failure to Obtain an Easement

(a) Any owner of littoral property or any person acting under the owner of littoral property who for purposes connected with the ownership of the littoral property shall construct or fix or place on coastal public land any structure without first obtaining an easement from the land office is subject to a civil penalty of not more than \$200.

(b) Each day the structure remains on or is affixed to coastal public land constitutes a separate offense.

Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.113. Interpretation of Easement Grant

The grant of an easement under Section 33.111 of this code and the waiver under Section 33.115 of this code shall not be construed as recognition of a right existing in the littoral owner incident to the ownership of littoral property.

Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.114. Policies, Provisions, and Conditions of Easements

In addition to the policies, provisions, and conditions generally applicable in this chapter, each grant of an easement is subject to the policies, provisions, and conditions of Sections 33.115 and 33.117 of this code.

Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.115. Piers

(a) Without obtaining an easement from the board, the owner of littoral property may construct a pier which:

- (1) may be used for any purpose except commercial purposes;
- (2) is 100 feet or less in length and 25 feet or less in width; and
- (3) requires no filling or dredging.

(b) The location and dimensions of the pier must be registered with the board in the manner provided in this chapter.

Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.116. Failure to Register Pier

Any owner of littoral property who fails to register the location and dimensions of the pier which is authorized to be constructed under Section 33.115 of this code is subject to a civil penalty of not more than \$200.

Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.117. Public Policy of State to be Considered

In administering Sections 33.111 through 33.115 of this code, the board shall consider the public policy of the state that the orderly use of privately owned littoral property in a manner consistent with the public policy of the state will not be impaired.

Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.118. Single Permit

If the activity for which the easement is sought requires the littoral owner to seek one or more permits from any other agency or department of state government, the board may agree with the agency or department to issue a single document incorporating all rights and privileges of the applicant.

Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.119. Issuance of Permits

The board may issue permits authorizing limited continued use of previously unauthorized structures on coastal public land if the use is sought by one who is claiming an interest in the structure but is not incident to the ownership of littoral property.

Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.120. Failure to Obtain a Permit

A person who maintains, uses, or repairs any structure for which a permit is required under Section 33.119 of this code without first obtaining a permit from the board is subject to a civil penalty of not less than \$50 nor more than \$1,000.

Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.121. Unauthorized Structures

Any person who constructs, fixes, or places on coastal public land any unauthorized structure for purposes not connected with ownership of littoral property is subject to a civil penalty of not less than \$50 nor more than \$1,000.

Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.122. Exception to Permit Requirement

No permit may be required for structures, excavations, or other similar structures as long as they are located wholly on the private littoral upland, even though the activities may result in the area being inundated by public water.

Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.123. Policies, Provisions, and Conditions of Permits

In addition to the policies, provisions, and conditions generally applicable in this chapter, each grant of a permit is subject to the policies, provisions, and conditions of Sections 33.120 through 33.122 and 33.124 through 33.126 of this code.

Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.124. Permits Prohibited for Certain Structures

The board may not grant a permit which authorizes the continued use of a structure located within 1,000 feet of:

- (1) privately owned littoral property, without written consent of the littoral owner;
- (2) any federal or state wildlife sanctuary or refuge; or
- (3) any federal, state, county, or city park bordering on coastal public land.

Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.125. Automatic Revocation and Termination of a Permit

A permit that authorizes the continued use of a previously unauthorized structure on coastal public land is considered automatically revoked and terminated if the coastal public land on which the structure is located is:

- (1) subsequently leased for public purposes;
- (2) exchanged for littoral property under this chapter; or
- (3) conveyed to a navigation district as provided by law.

Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.126. Termination of Permit by Board

Each permit shall provide that if the terms of the permit are broken, the permit may be terminated at the option of the board.

Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.127. Terms and Renewal of Permits

Permits may be issued for a period of not more than five years and may be renewed at the discretion of the board.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.128. Use of Previously Unauthorized Structures

Previously unauthorized structures for which permits are obtained may be used only for noncommercial, recreational purposes.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.129. Prohibitions on the Grant of Permits

The board may not grant an application for a permit which would violate the public policy of this state as expressed in this chapter and may not grant a permit for any structure not in existence on August 27, 1973.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.130. Repairs and Rebuilding

If a structure for which a permit is issued is severely damaged or destroyed by any means, no major repairs or rebuilding may be undertaken by the permit holder without the approval of the board.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.131. Structures as Property of the State

A structure presently existing or to be constructed in the future for which a permit is required under Section 33.119 of this code is the property of the state. Any construction, maintenance, or use of the structure other than as provided in this subchapter is declared to be a nuisance per se and is expressly prohibited.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

Amended by Acts 1993, 73rd Leg., ch. 991, § 10, eff. Sept. 1, 1993.

§ 33.132. Registration by Board

(a) The registration by the board on or before December 31, 1973, of a structure located in whole or in part on coastal public land on August 27, 1973, and claimed by the person submitting it for registration as an incident of the ownership of littoral property shall not be construed as evidence of the acquiescence of the state in the claim by the owner.

(b) Failure of the owner to register the structure stops the owner from making any further claim of right against the state in the structure and renders the structure a nuisance per se subject to abatement by the state at the expense of the littoral owner.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.133. Remedies Cumulative

Remedies provided in this subchapter are cumulative of all other remedies which may be applicable, including those remedies arising from the power of a court to enforce its jurisdiction and its judgments.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.134. Use and Development of Land by Littoral Owner

None of the provisions of this chapter shall prevent the littoral owner of property from developing or otherwise using his property in a lawful manner, and this chapter shall not be construed to confer on the board the authority to regulate, control, or restrict the use or development of the property.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.135. Notice to Purchaser or Grantee of Coastal Area Property

(a) A person who sells, transfers, or conveys an interest other than a mineral, leasehold, or security interest in real property adjoining and abutting the tidally influenced waters of the state must include the following notice as a part of a written executory contract for the sale, transfer, or conveyance:

"NOTICE REGARDING COASTAL AREA PROPERTY

"(1) The real property described in and subject to this contract adjoins and shares a common boundary with the tidally influenced submerged lands of the state. The boundary is subject to change and can be determined accurately only by a survey on the ground made by a licensed state land surveyor in accordance with the original grant from the sovereign. The owner of the property described in this contract may gain or lose portions of the tract because of changes in the boundary.

"(2) The seller, transferor, or grantor has no knowledge of any prior fill as it relates to the property described in and subject to this contract.

"(3) State law prohibits the use, encumbrance, construction, or placing of any structure in, on, or over state-owned submerged lands below the applicable tide line, without proper permission.

"(4) The purchaser or grantee is hereby advised to seek the advice of an attorney or other qualified person as to the legal nature and effect of the facts set forth in this notice on the property described in and subject to this contract. Information regarding the location of the applicable tide line as to the property described in and subject to this contract may be obtained from the surveying division of the General Land Office in Austin."

(b) If property described under Subsection (a) of this section is sold, transferred, or conveyed without an executory contract for conveyance, a written statement containing the notice prescribed by that subsection must be delivered to the grantee for execution and acknowledgment of receipt before the conveyance is recorded.

(c) Failure to include the statement in an executory contract for conveyance shall be grounds for the purchaser to terminate such contract, and upon termination any earnest money shall be returned to the party making the deposit.

(d) Failure to provide this statement prior to closing, either in the executory contract for conveyance or in a separate written statement, shall constitute a deceptive act under Section 17.46, Business & Commerce Code.

(e) This section or the action of any party subject to this section does not diminish or modify the beach access and use rights of the public as acquired by statute or under common law.

Added by Acts 1993, 73rd Leg., ch. 991, § 11, eff. Sept. 1, 1993.

§ 33.136. Property Rights: Preservation of Littoral Rights

(a) Notwithstanding any law to the contrary, a person may not undertake an action on or immediately landward of a public beach or submerged land, including state mineral lands, relating to erosion response that will cause or contribute to shoreline

alteration before the person has conducted and filed a coastal boundary survey in the same manner as the survey of public land required by Chapter 21 and any applicable rule of the commissioner and has obtained any required lease or other instrument from the commissioner or board, as applicable. A person is not required to obtain a lease or other instrument from the commissioner or board if the action is confined to land owned by a navigation district or municipality. On filing of the survey, the shoreline depicted on the survey is a fixed line for the purpose of locating a shoreline boundary, subject to movement landward of that line. A coastal boundary survey conducted under this section may not be filed until the commissioner gives notice of approval under Subsection (c).

(b) The survey must contain the following statement: "NOTICE: This survey was performed in accordance with Section 33.136, Natural Resources Code, for the purpose of evidencing the location of the shoreline in the area depicted in this survey as that shoreline existed before commencement of erosion response activity, as required by Chapter 33, Natural Resources Code. The line depicted on this survey fixes the shoreline for the purpose of locating a shoreline boundary, subject to movement landward as provided by Section 33.136, Natural Resources Code."

(c) Within 30 days after the date the commissioner approves a coastal boundary survey under this section, the commissioner shall provide notice of that approval by:

- (1) publication in the Texas Register;
- (2) publication for two consecutive weeks in a newspaper of general circulation in the county or counties in which the land depicted in the survey is located; and
- (3) filing a copy of the approval in the archives and records division of the land office.

(d) A person who claims title to permanent school fund land as a result of accretion, reliction, or avulsion in the coastal zone on or after September 1, 1999, must, in order to prevail in the claim, prove that:

- (1) a change in the shoreline has occurred;
- (2) the change did not occur as a result of the claimant's actions, the action of any predecessor in title, the action of any grantee, assignee, licensee, or person authorized by the claimant to use the claimant's land, or an erosion response activity; and
- (3) the claimant is entitled to benefit from the change.

(e) An upland owner who, because of erosion response activity undertaken by the commissioner, ceases to hold title to land that extends to the shoreline as altered by the erosion response activity is entitled to continue to exercise all littoral rights possessed by that owner before the date the erosion response activity commenced, including rights of ingress, egress, boating, bathing, and fishing.

(f) In this section, "erosion response" means an action intended to address coastal erosion, mitigate the effect of coastal erosion, or maintain or enhance beach stability or width. The term includes:

- (1) beach nourishment;
- (2) sediment management;
- (3) beneficial use of dredged material;
- (4) construction of breakwaters;
- (5) dune creation or enhancement; and
- (6) revegetation.

Added by Acts 1997, 75th Leg., ch. 938, § 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 508, § 3, eff. Sept. 1, 1999.

SUBCHAPTER E. ENFORCEMENT AND APPEAL

§ 33.171. Enforcement of Rights of Littoral Owners

(a) A littoral owner whose rights may be affected by any action of the board under this chapter may bring suit for a declaratory judgment against the State of Texas in a district court in Travis County to try the issues.

(b) Service of citation may be obtained by serving the commissioner.

Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.172. Venue

Unless expressly waived in writing by the attorney general, venue lies in Travis County in any proceeding:

- (1) arising out of an alleged violation of any provision of this chapter or any rule adopted by the board under this chapter;
- (2) touching any interest in land sought or granted under this chapter; and
- (3) to determine the boundaries or title to any coastal public land.

Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.173. Right to Appeal

Any interested party who is aggrieved by an action of the board under this chapter may appeal the action by filing a petition in a district court in Travis County.

Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.174. Time for Filing Petition

The petition for the appeal must be filed within 30 days after the date of the final action of the board or 30 days after the effective date of the action, whichever is the later date.

Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.175. Service of Citation

Service of citation on the board may be accomplished by serving the commissioner.

Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

§ 33.176. Issue on Appeal

In an appeal of a board action, the issue is whether the action is invalid, arbitrary, or unreasonable.

Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.

SUBCHAPTER F. COASTAL COORDINATION

§ 33.201. Short Title

This subchapter may be cited as the Coastal Coordination Act.

Added by Acts 1979, 66th Leg., p. 1991, ch. 785, § 1, eff. June 13, 1979. Amended by Acts 1991, 72nd Leg., ch. 295, § 37, eff. June 7, 1991.

§ 33.202. Policy

(a) It is declared to be the policy of this state to make more effective and efficient use of public funds and provide for more effective and efficient management of coastal natural resource areas, and to better serve the people of Texas by:

(1) continually reviewing the principal coastal problems of state concern, coordinating the performance of government programs affecting coastal natural resource areas, and coordinating the measures required to resolve identified coastal problems; and

(2) making all coastal management processes more visible, accessible, coherent, consistent, and accountable to the people of Texas.

(b) It is declared to be the policy of this state that the chief executive officer of the state should represent the State of Texas

in discussions and negotiations with the federal government with regard to the effect of federal actions on the coastal programs and policies of the State of Texas.

Added by Acts 1979, 66th Leg., p. 1991, ch. 785, § 1, eff. June 13, 1979. Amended by Acts 1991, 72nd Leg., ch. 295, § 37, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 416, § 3, eff. June 8, 1995.

§ 33.203. Definitions

In this subchapter:

(1) "Coastal natural resource areas" means:

- (A) coastal barriers;
- (B) coastal historic areas;
- (C) coastal preserves;
- (D) coastal shore areas;
- (E) coastal wetlands;
- (F) critical dune areas;
- (G) critical erosion areas;
- (H) gulf beaches;
- (I) hard substrate reefs;
- (J) oyster reefs;
- (K) submerged land;
- (L) special hazard areas;
- (M) submerged aquatic vegetation;
- (N) tidal sand or mud flats;
- (O) water of the open Gulf of Mexico; and
- (P) water under tidal influence.

(2) "Coastal barrier" means an undeveloped area on a barrier island, peninsula, or other protected area, as designated by United States Fish and Wildlife Service maps.

(3) "Coastal historic area" means a site that is specially identified in rules adopted by the Texas Historical Commission or the Antiquities Committee as being coastal in character and that is:

(A) a site on the National Register of Historic Places, designated under 16 U.S.C. Section 470a and 36 CFR Part 63, Chapter 1; or

(B) a state archaeological landmark, as defined by Subchapter D, Chapter 191.

(4) "Coastal preserve" means any land, including a park or wildlife management area, that is owned by the state and that is:

(A) subject to Chapter 26, Parks and Wildlife Code, because it is a park, recreation area, scientific area, wildlife refuge, or historic site; and

(B) designated by the Parks and Wildlife Commission as being coastal in character.

(5) "Coastal shore area" means an area within 100 feet landward of the highwater mark on submerged land.

(6) "Coastal waters" means waters under tidal influence and waters of the open Gulf of Mexico.

(7) "Coastal wetlands" means wetlands, as the term is defined by Section 11.502, Water Code, located:

(A) seaward of the coastal facility designation line established by rules adopted under Chapter 40;

(B) within rivers and streams, to the extent of tidal influence, as shown on the Texas Natural Resource Conservation Commission's stream segment maps, excluding the portion of the Trinity River located in Liberty County;

(C) within one mile of the mean high tide of the portion of river and stream described by Paragraph (B), except as provided by Paragraphs (D) and (E);

(D) in the case of wetlands bordering the portion of the Trinity River to which Paragraph (B) applies:

(i) within the area located between the mean high tide line on the western shoreline of that portion of the river and Farm-to-Market Road 565 and Farm-to-Market Road 1409; or

(ii) within the area located between the mean high tide line on the eastern shoreline of that portion of the river and Farm-to-Market Road 563; or

(E) in the case of wetlands bordering the portion of the Neches River described by Paragraph (B):

(i) within one mile from the mean high tide line of the western shoreline of that portion of the river described by Paragraph (B); or

(ii) within the area located between the mean high tide line on the eastern shoreline of that portion of the river and Farm-to-Market Road 105.

(8) "Critical area" means a coastal wetland, an oyster reef, a hard substrate reef, submerged aquatic vegetation, or a tidal sand or mud flat.

(9) "Critical dune area" means a protected sand dune complex on the Gulf shoreline within 1,000 feet of mean high tide designated by the land commissioner under Section 63.121.

(10) "Critical erosion area" has the meaning assigned to the term "critical coastal erosion area" by Section 33.601(4).

(11) "Gulf beach" means a beach bordering the Gulf of Mexico that is:

(A) located inland from the mean low tide line to the natural line of vegetation bordering the seaward shore of the Gulf of Mexico; or

(B) part of a contiguous beach area to which the public has a right of use or easement:

(i) continuously held by the public; or

(ii) acquired by the public by prescription, dedication, or estoppel.

(12) "Hard substrate reef" means a naturally occurring hard substrate formation, including a rock outcrop or serpulid worm reef, living or dead, in an intertidal or subtidal area.

(13) "Oyster reef" means a natural or artificial formation that is:

(A) composed of oyster shell, live oysters, and other living or dead organisms;

(B) discrete, contiguous, and clearly distinguishable from scattered oyster shell or oysters; and

(C) located in an intertidal or subtidal area.

(14) "Special hazard area" means an area designated under 42 U.S.C. Section 4001 et seq. as having special flood, mudslide or mudflow, or flood-related erosion hazards and shown on a flood hazard boundary map or flood insurance rate map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E.

(15) "Submerged land" means land located under waters under tidal influence or under waters of the open Gulf of Mexico, without regard to whether the land is owned by the state or a person other than the state.

(16) "Submerged aquatic vegetation" means rooted aquatic vegetation growing in permanently inundated areas in estuaries and marine systems.

(17) "Tidal sand or mud flat" means a silt, clay, or sand substrate, without regard to whether it is vegetated by algal mats, that occur in intertidal areas and that are regularly or intermittently exposed and flooded by tides, including tides induced by weather.

(18) "Water of the open Gulf of Mexico" means water in this state, as defined by Section 26.001(5), Water Code, that is part of the open water of the Gulf of Mexico and that is within the territorial limits of the state.

(19) "Water under tidal influence" means water in this state, as defined by Section 26.001(5), Water Code, that is subject to tidal influence according to the Texas Natural Resource Conservation Commission's stream segment map. The term includes coastal wetlands.

(20) "Council" means the Coastal Coordination Council, which shall consist of the commissioner, the chair of the Parks and

Wildlife Commission or a member of the commission designated by the chair, the chair of the Texas Natural Resource Conservation Commission or a member of the commission designated by the chair, a member of the Railroad Commission of Texas appointed by that commission, the chair of the Texas Water Development Board or a member of the board designated by the chair, the chair of the Texas Transportation Commission or a member of the commission designated by the chair, a member of the State Soil and Water Conservation Board appointed by that board, and one city or county elected official who resides in the coastal area, one owner of a business located in the coastal area who resides in the coastal area, one resident from the coastal area, and a representative of agriculture, each appointed by the governor with the advice and consent of the senate for two-year terms. The terms of the positions on the council held by the city or county elected official who resides in the coastal area and the resident from the coastal area expire May 31 of each even-numbered year. The terms of the positions on the council held by the owner of a business located in the coastal area who resides in the coastal area and the representative of agriculture expire May 31 of each odd-numbered year.

(21) "Agency or subdivision" means any state agency, department, board, or commission or political subdivision of the state.

(22) "Coastal management program" means an ongoing, comprehensive program containing the elements required for approval of a program under the Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.) that is designed to coordinate agencies' management of activities that may adversely affect coastal natural resource areas for the purpose of continually making management of those activities more efficient and effective.

(23) "Agency or subdivision action" means an action described by Section 33.2051 or 33.2053.

(24) "Federal agency activity" means a function performed by or for a federal agency in the exercise of its statutory responsibility, including financial assistance, the planning, construction, modification, or removal of a public work, facility, or any other structure, and the acquisition, use, or disposal of land or water resources. The term does not include the issuance of a federal license or permit.

(25) "Federal agency action" means a license or permit that a federal agency may issue that represents the proposed federal authorization, approval, or certification needed by the applicant to begin an activity.

(26) "Proposed action" means an agency or subdivision action under consideration by the agency or subdivision, but with respect to which the agency or subdivision has not made a final decision.

(27) "Outer continental shelf plan" means a plan for the exploration or development of, or production from, an area leased under the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.) and the rules adopted under that Act that is submitted to the secretary of the United States Department of the Interior after federal approval of the coastal management program.

Added by Acts 1979, 66th Leg., p. 1991, ch. 785, § 1, eff. June 13, 1979. Amended by Acts 1991, 72nd Leg., ch. 295, § 37, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 76, § 11.264, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995; Acts 1997, 75th Leg., ch. 396, § 1, eff. May 28, 1997; Acts 1999, 76th Leg., ch. 508, § 4, eff. Sept. 1, 1999.

§ 33.204. Administration of Coastal Management Program

(a) The council by rule shall adopt goals and policies of the coastal management program. A goal or policy may not require an agency or subdivision to perform an action that would exceed the constitutional or statutory authority of the agency or subdivision to which the goal or policy applies.

(b) The council shall meet once in each calendar quarter. The commissioner is chair of the council. The chair or any three members of the council may convene special meetings at other times.

(c) Except as provided by Sections 33.205(c)(3) and 33.206(a), the council may act on the agreement of a majority of a quorum of the council.

(d) For each matter to be reviewed by the council under Section 33.205(c) or (d) of this code, the governor shall designate

a local elected official from a county or municipality directly affected by the matter under review. The local official shall serve as a nonvoting participant on the council for purposes of reviewing and acting on that matter only.

(e) In conducting reviews under Section 33.205 of this code, the council shall receive and consider the oral or written testimony of any person regarding the coastal management program as the testimony relates to the agency or subdivision action or federal agency action or activity or outer continental shelf plan under review. The council may reasonably limit the length and format of the testimony and the time at which it will be received. Notice of the period during which the testimony will be received shall be published in the Texas Register and in a newspaper of general circulation in each county directly affected by the matter under review before the commencement of that period. The council shall consider only the record before the agency or subdivision involved in the matter under review, the agency's or subdivision's findings, applicable laws and rules, any additional information provided by that agency or subdivision, and public testimony under this subsection, provided that if the agency or subdivision did not hold a hearing, make a record, or make findings, the council may hold a hearing and make findings necessary to a complete and thorough review.

(f) The land office shall assist the council in carrying out its duties. The council members may not receive compensation for services but may receive reimbursement for actual and necessary expenses. The land office, in coordination with other agencies and subdivisions, shall prepare an annual report on the effectiveness of the coastal management program. The land office shall submit the report to the council for approval. On or before January 15 of each odd-numbered year, the land office shall send to the legislature each of the previous two annual reports.

Added by Acts 1979, 66th Leg., p. 1991, ch. 785, § 1, eff. June 13, 1979. Amended by Acts 1991, 72nd Leg., ch. 295, § 37, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.205. Consistency With Coastal Management Program; Council Review

(a) An agency or subdivision that takes an agency or subdivision action described by Section 33.2051 or 33.2053 that may adversely affect a coastal natural resource area shall comply with the goals and policies of the coastal management program.

(b) An agency or subdivision subject to the requirements of Subsection (a) shall affirm that it has taken into account the goals and policies of the coastal management program by issuing a written determination that a proposed action described by Section 33.2051 or 33.2053 is consistent with the program goals and policies.

(c) The council may not review a proposed action subject to the requirements of Subsections (a) and (b) of this section for consistency with the goals and policies of the coastal management program unless:

(1) the consistency determination for the proposed action was contested by:

(A) a council member or an agency that was a party in a formal hearing under Chapter 2001, Government Code, or in an alternative dispute resolution process; or

(B) a council member or other person by the filing of written comments with the agency before the action was proposed if the proposed action is one for which a formal hearing under Chapter 2001, Government Code, is not available;

(2) a person described by Subdivision (1) of this subsection files a request for referral alleging a significant unresolved dispute regarding the proposed action's consistency with the goals and policies of the coastal management program; and

(3) any three regular members of the council agree that there is a significant unresolved dispute regarding the proposed action's consistency with the goals and policies of the coastal management program and the matter is placed on the agenda for a council meeting.

(d) If consistency review thresholds are in effect under Section 33.2052, the council may not review a proposed action subject to the requirements of Subsections (a) and (b) for consistency with the goals and policies of the coastal management program unless the requirements of Subsection (c) are satisfied and:

(1) if the proposed action is one for which a formal hearing under Chapter 2001, Government Code, is available:

(A) the action exceeds the applicable thresholds and the agency's consistency determination was contested in a formal hearing or in an alternative dispute resolution process; or

(B) the action does not exceed the applicable thresholds but may directly and adversely affect a critical area, critical dune area, coastal park, wildlife management area or preserve, or gulf beach and a state agency contested the agency's consistency determination in a formal hearing; or

(2) if the proposed action is one for which a formal hearing under Chapter 2001, Government Code, is not available to contest the agency's determination, the action exceeds the applicable thresholds.

(e) The council must consider and act on a matter referred under Subsection (c) or (d) before the 26th day after the date the agency or subdivision proposed the action. For purposes of this section, an action subject to the contested case provisions of Chapter 2001, Government Code, is proposed when notice of a decision or order is issued under Section 2001.142, Government Code.

(f) The council by rule shall establish a process by which an applicant for a permit or other proposed action described in Section 33.2053, or an agency or subdivision proposing an action, may request and receive a preliminary consistency review. The rules shall:

(1) create a permitting assistance group composed of representatives of council member agencies and other interested council members to coordinate the preliminary reviews; and

(2) require that the following written information be produced not later than the 45th day after the date of the request for preliminary review:

(A) a statement from each agency or subdivision required to permit or approve the project as to whether the agency or subdivision anticipates approving or denying the application;

(B) if an agency or subdivision intends to deny an application, the agency's or subdivision's explanation of the grounds for denial and recommendations for resolving the grounds in a way that would allow the application to be approved;

(C) if enough information is already available, a preliminary finding as to whether the project is likely to be found consistent with the goals and policies of the coastal management program; and

(D) if the project is likely to be found inconsistent with the goals and policies of the coastal management program, an explanation and recommendation for resolving the inconsistency in a way that would allow the project to be found consistent.

(g) The council by rule shall establish a process by which an individual or small business may request and receive assistance with filing applications for permits or other proposed actions described by Section 33.2053. The rules shall provide for:

(1) the coordination of preapplication assistance through the permitting assistance group; and

(2) the provision of the following, by the permitting assistance group, to an individual or a small business, on request:

(A) a list of the permits or other approvals necessary for the project;

(B) a simple, understandable statement of all permit requirements;

(C) a coordinated schedule for each agency's or subdivision's decision on the action;

(D) a list of all the information the agencies or subdivisions need to declare the applications for the permits or other approvals administratively complete;

(E) assistance in completing the applications as needed; and

(F) if enough information is already available, a preliminary finding as to whether the project is likely to be found consistent with the goals and policies of the coastal management program.

(h) If an agency, subdivision, or applicant has received a preliminary finding of consistency under Subsection (f)(2)(C) or (g)(2)(F) and a request for referral was filed on that action under Subsection (c)(2), the council may accept the request for referral only if the agency or subdivision has substantially changed the permit or proposed action since the preliminary finding was issued.

Added by Acts 1991, 72nd Leg., ch. 295, § 37, eff. June 7, 1991. Amended by Acts 1995, 74th Leg., ch. 416, § 4, eff. June

8, 1995.

§ 33.2051. Agency Rulemaking Actions

(a) The land office shall comply with Sections 33.205(a) and (b) when adopting or amending a rule governing the prevention of, response to, or remediation of a coastal oil spill.

(b) The Texas Natural Resource Conservation Commission shall comply with Sections 33.205(a) and (b) when adopting or amending a rule governing:

- (1) air pollutant emissions;
- (2) on-site sewage disposal systems; or
- (3) underground storage tanks.

(c) The State Soil and Water Conservation Board shall comply with Sections 33.205(a) and (b) when adopting or amending a rule governing agricultural or silvicultural nonpoint source pollution.

(d) An agency shall comply with Sections 33.205(a) and (b) when adopting or amending a rule governing an individual action described by Section 33.2053.

(e) The council may not review a proposed rule of the Texas Department of Agriculture.

Added by Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.2052. Certification of Agency Rules; Agency Actions Considered Consistent

(a) The council by rule shall establish a process by which an agency may submit rules and rule amendments described by Section 33.2051 to the council for review and certification for consistency with the goals and policies of the coastal management program.

(b) The process must provide that an agency may submit to the council consistency review thresholds for the agency's actions described in Section 33.2053. After the council certifies that an agency's rules are consistent and approves the agency's thresholds, the agency's consistency determination under Section 33.205(b) for an action is final and is not subject to referral and review, except as provided by Section 33.205(d).

(c) The council by rule shall provide that the council may revoke its certification under Subsection (b) if the council finds that an agency has:

- (1) implemented certified rules in a manner that conflicts with the goals and policies of the coastal management program; or
- (2) amended certified rules in a manner inconsistent with the goals and policies of the coastal management program.

Added by Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.2053. Individual Agency or Subdivision Actions

(a) The land office, the School Land Board, or a board for lease of state-owned lands shall comply with Sections 33.205(a) and (b) when issuing or approving:

- (1) a mineral lease plan of operations;
- (2) a geophysical or geochemical permit;
- (3) a coastal easement;
- (4) a miscellaneous easement;
- (5) a coastal lease;
- (6) a surface lease;
- (7) a structure registration;
- (8) a cabin permit;

(9) a navigation district lease;

(10) certification of a local government beach access or dune protection plan; or

(11) an agency or subdivision wetlands mitigation bank.

(b) The Public Utility Commission of Texas shall comply with Sections 33.205(a) and (b) when issuing a certificate of convenience and necessity.

(c) The Railroad Commission of Texas shall comply with Sections 33.205(a) and (b) when issuing:

(1) a wastewater discharge permit;

(2) a waste disposal or storage pit permit; or

(3) a certification of a federal permit for the discharge of dredge or fill material.

(d) The Texas Transportation Commission shall comply with Sections 33.205(a) and (b) when approving:

(1) an acquisition of a site for the placement or disposal of dredge material from, or the expansion, relocation, or alteration of, the Gulf Intracoastal Waterway; or

(2) a transportation construction project or maintenance program.

(e) The Texas Historical Commission and the Antiquities Committee shall comply with Sections 33.205(a) and (b) when issuing:

(1) a permit for destruction, alteration, or taking of a coastal historic area; or

(2) a review of a federal undertaking affecting a coastal historic area.

(f) The Texas Natural Resource Conservation Commission shall comply with Sections 33.205(a) and (b) when issuing or approving:

(1) a wastewater discharge permit;

(2) a permit for a new concentrated animal feeding operation located one mile or less from a critical area or coastal waters;

(3) a permit for solid or hazardous waste treatment, storage, or disposal;

(4) creation of a special purpose district or approval of bonds for the purpose of construction of infrastructure on coastal barriers;

(5) levee improvement or flood control projects;

(6) a certification of a federal permit for the discharge of dredge or fill material;

(7) a declaration of an emergency and request for an emergency release of water;

(8) a new permit for an annual appropriation of:

(A) 5,000 or more acre-feet of water within the program boundary; or

(B) 10,000 or more acre-feet of water outside the program boundary but within 200 stream miles of the coast;

(9) an amendment to a water permit for an increase in an annual appropriation of:

(A) 5,000 or more acre-feet of water within the program boundary; or

(B) 10,000 or more acre-feet of water outside the program boundary but within 200 stream miles of the coast;

(10) a change in the purpose of use of an annual appropriation of water to a more consumptive use of:

(A) 5,000 or more acre-feet of water within the program boundary; or

(B) 10,000 or more acre-feet of water outside the program boundary but within 200 stream miles of the coast.

(g) The council may not review an action of the Texas Natural Resource Conservation Commission described by Subsections (f)(8)–(10) taken to implement a part of the Trans-Texas Water Program that the Trans-Texas Water Program Policy Management Committee has found to be consistent with the goals and policies of the coastal management program. To find that the program is consistent with the goals and policies, the Trans-Texas Water Program Policy Management Committee must:

(1) include at least three members of the council, or representatives of those members, as voting members of the committee;

and

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(2) make the finding by a majority vote of those members or their representatives.

(h) The Parks and Wildlife Department shall comply with Sections 33.205(a) and (b) when issuing or approving:

(1) an oyster lease;

(2) a permit for taking, transporting, or possessing threatened or endangered species;

(3) a permit for disturbing marl, sand, shell, or gravel on state-owned land; or

(4) development by a person other than the Parks and Wildlife Department that requires the use or taking of any public land in a state park, wildlife management area, or preserve.

(i) A subdivision shall comply with Sections 33.205(a) and (b) when issuing a dune protection permit or beachfront construction certificate that authorizes:

(1) construction activity that is located 200 feet or less landward of the line of vegetation and that results in the disturbance of more than 7,000 square feet of dunes or dune vegetation;

(2) construction activity that results in the disturbance of more than 7,500 cubic yards of dunes;

(3) a coastal shore protection project undertaken on a gulf beach or 200 feet or less landward of the line of vegetation and that affects more than 500 linear feet of gulf beach; or

(4) a closure, relocation, or reduction in existing public beach access or public beach access designated in an approved local government beach access plan, other than for a short term.

(j) An action to renew, amend, or modify an existing permit, certificate, lease, easement, approval, or other action is not an action under this section if the action is taken under a rule that the council has certified under Section 33.2052 and:

(1) for a wastewater discharge permit, if the action is not a major permit modification that would:

(A) increase pollutant loads to coastal waters; or

(B) result in relocation of an outfall to a critical area;

(2) for solid, hazardous, or nonhazardous waste permits, if the action is not a Class III modification under rules of the Texas Natural Resource Conservation Commission; or

(3) for any other action, if the action:

(A) only extends the period of the existing authorization and does not authorize new or additional work or activity; or

(B) is not directly relevant to Sections 33.205(a) and (b).

(k) The council shall establish a program boundary to limit the geographic area in which the requirements of Sections 33.205(a) and (b) apply. The boundary is the coastal facility designation line as defined by Appendix 1 to 31 TAC Section 19.2 as that appendix existed on the effective date of this section, as modified by Section 33.203(7). Except as provided by Subsections (f)(8)–(10), this subchapter does not apply to an agency action authorizing an activity outside the program boundary.

Added by Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.206. Council Action

(a) A proposed action is consistent with the goals and policies of the coastal management program and approved by the council unless, on the affirmative vote of at least two-thirds of the members of the council, the council determines the action to be inconsistent with the coastal management program and protests the action.

(b) If the council protests the proposed action, the council shall report its findings on the matter to the agency or subdivision. The report shall specify how the proposed action is inconsistent with the goals and policies of the coastal management program

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and include specific recommendations of the council regarding how the proposed action may be modified or amended to make it consistent with the program. Before the 21st day after the date the agency or subdivision receives the report, the agency or subdivision shall review the findings and recommendations and determine whether to modify or amend the proposed action to make it consistent with the goals and policies of the coastal management program and shall notify the council of its decision.

(c) If an agency or subdivision does not modify or amend a proposed action to be consistent with the goals and policies of the coastal management program, the council shall request the attorney general to issue an opinion on the consistency of the proposed action with the coastal management program. The agency or subdivision is stayed from taking the proposed action until the attorney general issues the opinion. The attorney general shall issue an opinion before the 26th day after the date the council requests the opinion.

(d) The council shall adopt procedural rules for the review of federal actions, activities, and outer continental shelf plans that incorporate the provisions of federal regulations governing those reviews. The rules shall provide that the chair or any three members may request additional information from a federal agency or additional time for review as provided by the federal regulations.

(e) The council shall review any federal action, activity, or outer continental shelf plan that any three members of the council agree presents a significant unresolved issue regarding consistency with the goals and policies of the coastal management program and place the matter on the agenda of a meeting of the council for review.

(f) If an activity requiring an agency or subdivision action described by Section 33.2053 that falls below thresholds in effect under Section 33.2052 also requires an equivalent federal permit or license, the council may only determine the agency or subdivision action's consistency. If an activity requiring an agency or subdivision action above thresholds requires an equivalent federal permit or license, the council may determine the consistency of the agency or subdivision action or the federal license or permit, but not both. The determination regarding the consistency of an action made by the council under this subsection constitutes the state's determination regarding consistency of the equivalent agency or subdivision action or federal action.

(g) If, after review, the council finds a proposed federal agency action or activity or outer continental shelf plan is inconsistent with the coastal management program, and the federal agency does not modify the action, activity, or outer continental shelf plan to achieve consistency with the program, the governor, with the assistance of the chair of the council, may seek mediation of the matter in accordance with federal law.

(h) The council may not protest a proposed action by an agency or subdivision pertaining to an application filed with that agency or subdivision before the date the coastal management program is adopted.

Added by Acts 1991, 72nd Leg., ch. 295, § 37, eff. June 7, 1991. Amended by Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.207. Council Recommendations

In addition to the report required by Section 33.206, the council:

(1) may periodically submit recommendations to an agency or subdivision designed to encourage the agency or subdivision to carry out its functions in a manner consistent with the coastal management program, including recommendations for methods to simplify governmental procedures and changes in applicable rules or statutes; and

(2) shall report to the legislature on:

(A) recommended statutory changes needed to make more effective and efficient use of public funds and provide for more

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effective and efficient management of coastal natural resource areas, including recommendations on methods to simplify governmental procedures; and

(B) agency or subdivision actions that are not consistent with the coastal management program.

Added by Acts 1991, 72nd Leg., ch. 295, § 37, eff. June 7, 1991. Amended by Acts 1995, 74th Leg., ch. 76, § 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.208. Enforcement

(a) The agency or subdivision with jurisdiction over a proposed action shall enforce the provisions of the coastal management program.

(b) If the attorney general issues an opinion under Section 33.206(c) that a proposed agency or subdivision action is inconsistent with the coastal management program and the agency or subdivision fails to implement the council's recommendation regarding the action, the attorney general shall file suit in a district court of Travis County to enforce this subchapter. The court shall consider the attorney general's opinion in determining whether the proposed action is consistent with the coastal management program.

(c) Notwithstanding the request of an opinion from, or the filing of suit by, the attorney general, the council and the agency or subdivision may enter into a settlement agreement with regard to the proposed action. If the council and the agency or subdivision enter into a settlement agreement, the council may rescind its request for an opinion from the attorney general. Added by Acts 1991, 72nd Leg., ch. 295, § 37, eff. June 7, 1991. Amended by Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.209. Prohibition on Special Area Management Plans

The council may not develop or approve a special area management plan, including a plan for an area designated under the national estuary program.

Added by Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.210. Private Property

The requirements of this subchapter may not be applied in a manner that would result in the taking, damage, or destruction of property without adequate compensation.

Added by Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995.

§ 33.211. Sunset Provision

The Coastal Coordination Council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this subchapter expires September 1, 2001.

Added by Acts 1995, 74th Leg., ch. 416, § 4, eff. June 8, 1995. Amended by Acts 1997, 75th Leg., ch. 1169, § 1.01, eff. Sept. 1, 1997.

APPENDIX B

§ 1455b. Protecting coastal waters (Section 6217)

(a) In general.

(1) Program development. Not later than 30 months after the date of the publication of final guidance under subsection (g), each State for which a management program has been approved pursuant to section 306 of the Coastal Zone Management Act of 1972 [16 USC § 1455] shall prepare and submit to the Secretary and the Administrator a Coastal Nonpoint Pollution Control Program for approval pursuant to this section. The purpose of the program shall be to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities.

(2) Program coordination. A State program under this section shall be coordinated closely with State and local water quality plans and programs developed pursuant to sections 208, 303, 319, and 320 of the Federal Water Pollution Control Act (33 U.S.C. 1288, 1313, 1329, and 1330) and with State plans developed pursuant to the Coastal Zone Management Act of 1972 [16 USC §§ 1651 et seq.], as amended by this Act. The program shall serve as an update and expansion of the State nonpoint source management program developed under section 319 of the Federal Water Pollution Control Act [33 USC § 1329], as the program under that section relates to land and water uses affecting coastal waters.

(b) Program contents. Each State program under this section shall provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g), to protect coastal waters generally, and shall also contain the following:

(1) Identifying land uses. The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of--

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes; or

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources.

(2) Identifying critical coastal areas. The identification of, and a continuing process for identifying, critical coastal areas adjacent to coastal waters referred to in paragraph (1)(A) and (B), within which any new land uses or substantial expansion of existing land uses shall be subject to management measures in addition to those provided for in subsection (g).

(3) Management measures. The implementation and continuing revision from time to time of additional management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that are necessary to achieve and maintain applicable water quality standards under section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) and protect designated uses.

(4) Technical assistance. The provision of technical and other assistance to local governments and the public for implementing the measures referred to in paragraph (3), which may include assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such

measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

(5) Public participation. Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

(6) Administrative coordination. The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, memoranda of agreement, or other mechanisms.

(7) State coastal zone boundary modification. A proposal to modify the boundaries of the State coastal zone as the coastal management agency of the State determines is necessary to implement the recommendations made pursuant to subsection (e). If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

(c) Program submission, approval, and implementation.

(1) Review and approval. Within 6 months after the date of submission by a State of a program pursuant to this section, the Secretary and the Administrator shall jointly review the program. The program shall be approved if--

(A) the Secretary determines that the portions of the program under the authority of the Secretary meet the requirements of this section and the Administrator concurs with that determination; and

(B) the Administrator determines that the portions of the program under the authority of the Administrator meet the requirements of this section and the Secretary concurs with that determination.

(2) Implementation of approved program. If the program of a State is approved in accordance with paragraph (1), the State shall implement the program, including the management measures included in the program pursuant to subsection (b), through--

(A) changes to the State plan for control of nonpoint source pollution approved under section 319 of the Federal Water Pollution Control Act [33 USC § 1329]; and

(B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act of 1972 [16 USC § 1455], as amended by this Act.

(3) Withholding coastal management assistance. If the Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program

is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972 [16 USC § 1455], as follows:

(A) 10 percent for fiscal year 1996.

(B) 15 percent for fiscal year 1997.

(C) 20 percent for fiscal year 1998.

(D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

The Secretary shall make amounts withheld under this paragraph available to coastal States

having programs approved under this section.

(4) Withholding water pollution control assistance. If the Administrator finds that a coastal State has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 319 of the Federal Water Pollution Control Act [33 USC § 1329], for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

(A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.

(B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.

(C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.

(D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.

The Administrator shall make amounts withheld under this paragraph available to States having programs approved pursuant to this subsection.

(d) Technical assistance. The Secretary and the Administrator shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include--

(1) methods for assessing water quality impacts associated with coastal land uses;

(2) methods for assessing the cumulative water quality effects of coastal development;

(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and

(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

(e) Inland coastal zone boundaries.

(1) Review. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after the effective date of this title, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972 [16 USC § 1455], and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

(2) Recommendation. If the Secretary, in consultation with the Administrator, finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Secretary, in consultation with the Administrator, shall recommend appropriate modifications in writing to the affected State.

(f) Financial assistance.

(1) In general. Upon request of a State having a program approved under section 306 of the Coastal Zone Management Act of 1972 [16 USC § 1455], the Secretary, in consultation with the Administrator, may provide grants to the State for use for developing a State

program under this section.

(2) Amount. The total amount of grants to a State under this subsection shall not exceed 50 percent of the total cost to the State of developing a program under this section.

(3) State share. The State share of the cost of an activity carried out with a grant under this subsection shall be paid from amounts from non-Federal sources.

(4) Allocation. Amounts available for grants under this subsection shall be allocated among States in accordance with regulations issued pursuant to section 306(c) of the Coastal Zone Management Act of 1972 [16 USC § 1455(c)], except that the Secretary may use not more than 25 percent of amounts available for such grants to assist States which the Secretary, in consultation with the Administrator, determines are making exemplary progress in preparing a State program under this section or have extreme needs with respect to coastal water quality.

(g) Guidance for coastal nonpoint source pollution control.

(1) In general. The Administrator, in consultation with the Secretary and the Director of the United States Fish and Wildlife Service and other Federal agencies, shall publish (and periodically revise thereafter) guidance for specifying management measures for sources of nonpoint pollution in coastal waters.

(2) Content. Guidance under this subsection shall include, at a minimum--

(A) a description of a range of methods, measures, or practices, including structural and nonstructural controls and operation and maintenance procedures, that constitute each measure;

(B) a description of the categories and subcategories of activities and locations for which each measure may be suitable;

(C) an identification of the individual pollutants or categories or classes of pollutants that may be controlled by the measures and the water quality effects of the measures;

(D) quantitative estimates of the pollution reduction effects and costs of the measures;

(E) a description of the factors which should be taken into account in adapting the measures to specific sites or locations; and

(F) any necessary monitoring techniques to accompany the measures to assess over time the success of the measures in reducing pollution loads and improving water quality.

(3) Publication. The Administrator, in consultation with the Secretary, shall publish--

(A) proposed guidance pursuant to this subsection not later than 6 months after the date of the enactment of this Act [enacted Nov. 5, 1990]; and

(B) final guidance pursuant to this subsection not later than 18 months after such effective date.

(4) Notice and comment. The Administrator shall provide to coastal States and other interested persons an opportunity to provide written comments on proposed guidance under this subsection.

(5) Management measures. For purposes of this subsection, the term "management measures" means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices,

technologies, processes, siting criteria, operating methods, or other alternatives.

(h) Authorizations of appropriations.

(1) Administrator. There is authorized to be appropriated to the Administrator for use for carrying out this section not more than \$ 1,000,000 for each of fiscal years 1992, 1993, and 1994.

(2) Secretary.

(A) Of amounts appropriated to the Secretary for a fiscal year under section 318(a)(4) of the Coastal Zone Management Act of 1972 [16 USC § 1464(a)(4)], as amended by this Act, not more than \$ 1,000,000 shall be available for use by the Secretary for carrying out this section for that fiscal year, other than for providing in the form of grants under subsection (f).

(B) There is authorized to be appropriated to the Secretary for use for providing in the form of grants under subsection (f) not more than--

(i) \$ 6,000,000 for fiscal year 1992;

(ii) \$ 12,000,000 for fiscal year 1993;

(iii) \$ 12,000,000 for fiscal year 1994; and

(iv) \$ 12,000,000 for fiscal year 1995.

(i) Definitions. In this section--

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "coastal State" has the meaning given the term "coastal state" under section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453);

(3) each of the terms "coastal waters" and "coastal zone" has the meaning that term has in the Coastal Zone Management Act of 1972 [16 USC §§ 1651 et seq.];

(4) the term "coastal management agency" means a State agency designated pursuant to section 306(d)(6) of the Coastal Zone Management Act of 1972 [16 USC § 1455(d)(6)];

(5) the term "land use" includes a use of waters adjacent to coastal waters; and

(6) the term "Secretary" means the Secretary of Commerce.

APPENDIX C

31 TAC §58.161

The Texas Parks and Wildlife department adopts, on an emergency basis, an amendment to §58.161, concerning shrimping in outside waters (Gulf waters of the Texas territorial seas - nine nautical miles). Based on sound biological data, the executive director has determined that optimum migration of small brown shrimp from the bays to the Gulf of Mexico will occur earlier than the established July 15 regulatory opening date. Sound biological data indicate that most of the shrimp on the Gulf fishing grounds will be of satisfactory size to achieve maximum benefits from the resource on July 5, 2000.

The purpose of the closed Gulf season is to protect brown shrimp during their major period of emigration from the bays to the Gulf of Mexico until they reach a larger, more valuable size before harvest and to prevent waste caused by the discarding of smaller individuals. The season closed 30 minutes after sunset, May 11, 2000.

The executive director finds imminent peril to the public welfare which requires an emergency measure to set an opening date to minimize social and economic hardship in a depressed industry by opening the season 10 days earlier than scheduled to obtain optimum yield from the resource. The amendment is adopted on an emergency basis under authority of Parks and Wildlife Code §77.062. In April 1978, the Texas Parks and Wildlife Commission delegated to the executive director the duties and responsibilities of opening and closing the shrimping season under this section.

§58.161. Shrimping in Outside Waters.

(a) Gulf net restrictions.

(1) Except as otherwise provided in this section, no trawls may have a mesh size smaller than 8 3/4 inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been used.

(2) Except as otherwise provided in this section, the presence of a shrimp trawl (excluding doors) not stored within the confines of the hull of a vessel in outside water during the closed periods provided by subsection (d) of this section is prima facie evidence of a violation of this section.

(3) In outside waters of more than seven fathoms, an electro-trawl having an applied voltage of no more than three volts may be used for taking shrimp.

(4) There are no restrictions on the number of trawls that may be used in outside waters except as provided in this section.

(b) Bag and possession limits. During the gulf open season there are no bag and possession limits on shrimp.

- (c) Size limits. Shrimp of any size may be retained when caught lawfully in the outside waters.
- (d) Gulf shrimping seasons. The outside waters are open to shrimping except:
- (1) Night: the outside waters within seven fathoms are closed to night shrimping (30 minutes after sunset to 30 minutes before sunrise) throughout the year;
 - (2) Summer closed season:
 - (A) The outside waters are closed from 30 minutes after sunset on May 15 to 30 minutes after sunset July 15.
 - (B) The commission may change the opening and closing dates to provide an earlier, later, or longer season not to exceed 75 days.
 - (C) The department will provide 72 hours public notice prior to a change in the closing date, and 24 hours public notice prior to reopening the season.
 - (3) Winter closed season: the outside waters up to and including seven fathoms are closed from December 16 through February 1 the following year, unless taking seabobs.
 - (4) Seabob season:
 - (A) Seabobs may be taken:
 - (i) during daylight hours only (30 minutes before sunrise to 30 minutes after sunset);
 - (ii) during the gulf open season; and
 - (iii) during the winter closed season.
 - (B) No person catching seabobs may catch or have on board a boat any other species of shrimp which exceed 10%, in weight or number, of the entire catch.
 - (C) Not more than one trawl may be used for taking seabobs.
 - (D) Trawl restrictions for taking seabobs:
 - (i) Trawl width may not exceed 25 feet as measured along the corkline from board to board or between extremes of any other spreading device.
 - (ii) Mesh size: there are no mesh size restrictions for the take of seabobs.
- (e) Early Closure of the Gulf Shrimping Season. The provisions of subsection (d) (2) (A) of this section are replaced, as follows:
- the general closed season for shrimp in outside waters extends from 30 minutes after sunset on May 11, 2000 to 30 minutes after sunset on July 5, 2000. [The provisions of subsection (d) (2) (A) of this section are replaced, as follows: the general closed season for shrimp in outside waters extends from 30 minutes after sunset May 11, 2000 to 30 minutes after sunset July 15, 2000].

Filed with the Office of the Secretary of State, on June 30, 2000.

TRD-200004544

Gene McCarty

Chief of Staff

Texas Parks and Wildlife Department

Effective date: June 30, 2000

Expiration date: September 18, 2000

For further information, please call: (512) 389-4775

APPENDIX D

COASTAL ISSUE IDENTIFICATION & VALIDATION

SURVEY SUMMARY

{as of 6/00}

{This is an informal survey to assist in the identification and validation of issues important to meeting the opportunities and challenges facing the Texas Coastal Region. Please consider the item and indicate if there is agreement “A” or disagreement “D” with it being an issue in the coastal region. Then, give the agreed upon issue a priority ranking of high “H”, medium “M”, or low “L”.} “() = No resp.”

ITEM/ISSUE	ACTION ITEM	AGREE/DISAGREE (A/D)	PRIORITY (H/M/L)
Economic Development			
	Enhance Tourism	98%/0 (2%)	85%/12%/3%
	Enhance Marine Transportation and Commerce	85%/9% (5%)	59%/20%/12% (10%)
	Enhance Industrial Growth	85%/12% (3%)	56%/22%/15% (7%)
Conservation of Natural Resources			
	Provide for water quality	100%/0%	93%/5%/0 (3%)
	Provide for water quantity	90%/3% (7%)	73%/17%/3% (7%)
	Provide for air quality	93 %/0/ (7%)	71%/15%/5 (10%)
	Provide for conservation of marine fisheries resources	95%/ 0 (5%)	66%/24%/5% (5%)
	Provide protection from beach erosion	98%/ 0 (2%)	78%/15%/5% (2%)
	Provide for healthy wetlands	95%/0 (5%)	59%/37%/0 (5%)

ITEM/ISSUE	ACTION ITEM	AGREE/DISAGREE (A/D)	PRIORITY (H/M/L)
Public Health and Safety			
	Shellfish/seafood safety	93%/3%/ (5%)	66%/17%/7% (10%)
	Public beach water quality	90%/5% (5%)	59%/32%/3% (7%)
	Improve hurricane evacuation preparation and implementation	95%/3% (3%)	78%/12%/7% (3%)
	Improve non-weather related emergency responses	80%/12% (7%)	41%/29%/20% (10%)
	Improve coastal health/safety alerts	88%/7% (5%)	46%/32%/12% (10%)
Education about Coastal Issues			
	Improve general public education on coastal and marine issues	98%/0 (3%)	46%/41%/7% (5%)
	Improve youth education on coastal and marine and coastal issues.	98%/0 (3%)	59%/34%/3% (5%)
Population growth & urban sprawl			
	Develop infrastructure to support growth	95%/3% (3%)	80%/10%/3% (7%)

OTHER COASTAL ISSUES

- 1. Marine Reserves**
- 2. Shrimp for Bait**
- 3. Bird Habitat**
- 4. Protect Oak Mottee Area**
- 5. Coordination of coastal efforts**
- 6. More Dollars for Projects**
- 7. Shrimp Farming**
- 8. Comparison of Regional**
- 9. Impact of Beach Nourishment**
- 10. Improvements to State Highway 35**
- 11. State Highway 35 as a Tourist Corridor**
- 12. Lower Laguna Madre Sea Grass Protection**
- 13. Federal Fisheries Management in the Exclusive Economic Zone**
- 14. Provide for clean beaches**
- 15. Deep-water port Development**
- 16. Port Regionalization**
- 17. Agriculture support for Commercial Fisheries**
- 18. TxDOT Support for Ports**
- 19. Enhanced National Weather Service Coverage**

APPENDIX E

HOUSE CONCURRENT RESOLUTION 59

1-1 WHEREAS, One of Texas' richest and most diverse areas is that
1-2 of the Gulf Coast; the Coastal Bend abounds with treasures for all,
1-3 and every year thousands of visitors flock to its beaches and
1-4 wetlands to enjoy the sun, fish the waters, appreciate its unique
1-5 scenery and wildlife, and bolster their spirits simply by being
1-6 near such awe-inspiring beauty; and

1-7 WHEREAS, In addition to \$7 billion per year generated by
1-8 coastal tourism, the area is also home to half of the nation's
1-9 petrochemical industry and over a quarter of its petroleum refining
1-10 capacity; and

1-11 WHEREAS, Coastal tourism, the petrochemical and petroleum
1-12 industries, a robust commercial and recreational fishing trade, and
1-13 significant agricultural production make this region a vital
1-14 economic and natural resource for both the state and the nation;
1-15 and

1-16 WHEREAS, Like other coastal states located near offshore
1-17 drilling activities, Texas provides workers, equipment, and ports
1-18 of entry for oil and natural gas mined offshore; while these states
1-19 derive numerous benefits from the offshore drilling industry, they
1-20 also face great risks, such as coastline degradation and spill
1-21 disasters, as well as the loss of nonrenewable natural resources;
1-22 and

1-23 WHEREAS, Although state and local authorities have worked
1-24 diligently to conserve and protect coastal resources, securing the
2-1 funds needed to maintain air and water quality and to ensure the
2-2 existence of healthy wetlands and beaches and protection of
2-3 wildlife is a constant challenge; and

2-4 WHEREAS, The federal Land and Water Conservation Fund was
2-5 established by Congress in 1964 and has been one of the most
2-6 successful and far-reaching pieces of conservation and recreation
2-7 legislation, using as its funding source the revenues from oil and
2-8 gas activity on the Outer Continental Shelf; and

2-9 WHEREAS, The game and nongame wildlife resources of this
2-10 state are a vital natural resource and provide enjoyment and other
2-11 benefits for current and future generations; and

2-12 WHEREAS, The federal government has received more than \$120
2-13 billion in offshore drilling revenue during the past 43 years, only

2-14 five percent of which has been allotted to the states; it is fair
2-15 and just that Texas and other coastal states should receive a
2-16 dedicated share of the revenue they help generate; and

2-17 WHEREAS, Several bills are currently before the United States
2-18 Congress that would allocate a portion of federal offshore drilling
2-19 royalties to coastal states and local communities for wildlife
2-20 protection, conservation, and coastal impact projects; and

2-21 WHEREAS, States and local communities know best how to
2-22 allocate resources to address their needs, and block grants will
2-23 provide the best means for distributing funds; and

2-24 WHEREAS, These funds would help support the recipients'
2-25 efforts to renew and maintain their beaches, wetlands, urban
2-26 waterfronts, parks, public harbors and fishing piers, and other
2-27 elements of coastal infrastructure that are vital to the quality of
3-1 life and economic and environmental well-being of these states and
3-2 local communities; now, therefore, be it

3-3 RESOLVED, That the 76th Legislature of the State of Texas
3-4 hereby respectfully urge the Congress of the United States to pass
3-5 legislation embodying these principles; and, be it further

3-6 RESOLVED, That the Texas secretary of state forward official
3-7 copies of this resolution to the president of the United States, to
3-8 the speaker of the house of representatives and the president of
3-9 the senate of the United States Congress, and to all the members of
3-10 the Texas delegation to the congress with the request that this
3-11 resolution be officially entered in the Congressional Record as a
3-12 memorial to the Congress of the United States of America.

APPENDIX F

HR 701

Beginning

May 11, 2000

[Strike out all after the enacting clause and insert the part printed in italic]

[Struck out->] SECTION 1. SHORT TITLE. [<-Struck out]

[Struck out->] SEC. 2. TABLE OF CONTENTS. [<-Struck out]

[Struck out->] SEC. 3. DEFINITIONS. [<-Struck out]

[Struck out->] SEC. 4. ANNUAL REPORTS. [<-Struck out]

[Struck out->] SEC. 5. CONSERVATION AND REINVESTMENT ACT FUND.

[<-Struck out]

[Struck out->] SEC. 6. LIMITATION ON USE OF AVAILABLE AMOUNTS FOR ADMINISTRATION.

[<-Struck out]

[Struck out->] SEC. 7. RECORDKEEPING REQUIREMENTS. [<-Struck out]

[Struck out->] SEC. 8. MAINTENANCE OF EFFORT AND MATCHING FUNDING.

[<-Struck out]

[Struck out->] SEC. 9. SUNSET. [<-Struck out]

[Struck out->] SEC. 10. PROTECTION OF PRIVATE PROPERTY RIGHTS.

[<-Struck out]

[Struck out->] SEC. 11. SIGNS. [<-Struck out]

[Struck out->] TITLE I--IMPACT ASSISTANCE AND COASTAL CONSERVATION

[<-Struck out]

[Struck out->] SEC. 101. IMPACT ASSISTANCE FORMULA AND PAYMENTS.

[<-Struck out]

[Struck out->] SEC. 102. COASTAL STATE CONSERVATION AND IMPACT ASSISTANCE PLANS.

[<-Struck out]

[Struck out->] TITLE II--LAND AND WATER CONSERVATION FUND REVITALIZATION [<-Struck out]

[Struck out->] SEC. 201. AMENDMENT OF LAND AND WATER CONSERVATION
FUND ACT OF 1965.

[<-Struck out]

[Struck out->] SEC. 203. AVAILABILITY OF AMOUNTS. [<-Struck out]

[Struck out->] ` APPROPRIATIONS [<-Struck out]

[Struck out->] SEC. 204. ALLOCATION OF FUND. [<-Struck out]

[Struck out->] ` ALLOCATION OF FUNDS [<-Struck out]

[Struck out->] SEC. 205. USE OF FEDERAL PORTION. [<-Struck out]

[Struck out->] SEC. 206. ALLOCATION OF AMOUNTS AVAILABLE FOR STATE
PURPOSES. [<-Struck out]

[Struck out->] SEC. 207. STATE PLANNING. [<-Struck out]

[Struck out->] SEC. 208. ASSISTANCE TO STATES FOR OTHER PROJECTS.

[<-Struck out]

[Struck out->] SEC. 209. CONVERSION OF PROPERTY TO OTHER USE.

[<-Struck out]

[Struck out->] SEC. 210. WATER RIGHTS. [<-Struck out]

[Struck out->] ` WATER RIGHTS [<-Struck out]

[Struck out->] SEC. 211. REQUIREMENTS FOR ACQUISITION OF LANDS IN
MONTANA WITH FEDERAL
PORTION. [<-Struck out]

[Struck out->] TITLE III--WILDLIFE CONSERVATION AND RESTORATION [<-Struck
out]

[Struck out->] SEC. 301. PURPOSES. [<-Struck out]

[Struck out->] SEC. 302. DEFINITIONS. [<-Struck out]

[Struck out->] SEC. 305. EDUCATION. [<-Struck out]

[Struck out->] SEC. 306. PROHIBITION AGAINST DIVERSION. [<-Struck out]

[Struck out->] TITLE IV--URBAN PARK AND RECREATION RECOVERY PROGRAM
AMENDMENTS [<-Struck
out]

[Struck out->] SEC. 401. AMENDMENT OF URBAN PARK AND RECREATION RECOVERY ACT OF 1978.

[<-Struck out]

[Struck out->] SEC. 402. PURPOSE. [<-Struck out]

[Struck out->] `TREATMENT OF AMOUNTS TRANSFERRED FROM CONSERVATION AND REINVESTMENT

ACT FUND [<-Struck out]

[Struck out->] SEC. 404. AUTHORITY TO DEVELOP NEW AREAS AND FACILITIES. [<-Struck out]

[Struck out->] SEC. 405. DEFINITIONS. [<-Struck out]

[Struck out->] SEC. 406. ELIGIBILITY. [<-Struck out]

[Struck out->] SEC. 407. GRANTS. [<-Struck out]

[Struck out->] `GRANTS [<-Struck out]

[Struck out->] SEC. 408. RECOVERY ACTION PROGRAMS. [<-Struck out]

[Struck out->] SEC. 409. STATE ACTION INCENTIVES. [<-Struck out]

[Struck out->] SEC. 410. CONVERSION OF RECREATION PROPERTY. [<-Struck out]

[Struck out->] `CONVERSION OF RECREATION PROPERTY [<-Struck out]

[Struck out->] SEC. 411. REPEAL. [<-Struck out]

[Struck out->] TITLE V--HISTORIC PRESERVATION FUND [<-Struck out]

[Struck out->] `SEC. 114. STATE USE OF ASSISTANCE FOR NATIONAL HERITAGE AREAS AND

CORRIDORS. [<-Struck out]

[Struck out->] TITLE VI--FEDERAL AND INDIAN LANDS RESTORATION [<-Struck out]

[Struck out->] SEC. 601. PURPOSE. [<-Struck out]

[Struck out->] SEC. 603. AUTHORIZED USES OF TRANSFERRED AMOUNTS.

[<-Struck out]

[Struck out->] SEC. 604. INDIAN TRIBE DEFINED. [<-Struck out]

[Struck out->] Subtitle A--Farmland Protection Program [<-Struck out]

[Struck out->] `SEC. 388. FARMLAND PROTECTION PROGRAM. [<-Struck out]

[Struck out->] SEC. 702. FUNDING. [<-Struck out]

[Struck out->] Subtitle B--Endangered and Threatened Species Recovery

[<-Struck out]

[Struck out->] SEC. 711. PURPOSES. [<-Struck out]

**[Struck out->] SEC. 713. ENDANGERED AND THREATENED SPECIES
RECOVERY ASSISTANCE.**

[<-Struck out]

**[Struck out->] SEC. 714. ENDANGERED AND THREATENED SPECIES
RECOVERY AGREEMENTS.**

[<-Struck out]

[Struck out->] SEC. 715. DEFINITIONS. [<-Struck out]

**[Struck out->] TITLE VIII--PROTECTION OF SOCIAL SECURITY AND MEDICARE
BENEFITS [<-Struck out]**

**[Struck out->] SEC. 801. PROTECTION OF SOCIAL SECURITY AND MEDICARE
BENEFITS. [<-Struck out]**

SECTION 1. SHORT TITLE.

SEC. 2. CONSERVATION AND REINVESTMENT ACT FUND.

SEC. 3. RECORDKEEPING REQUIREMENTS.

SEC. 4. ANNUAL REPORTS.

SEC. 5. MAINTENANCE OF EFFORT AND MATCHING FUNDING.

SEC. 6. PROTECTION OF PRIVATE PROPERTY RIGHTS.

SEC. 7. SIGNS.

**SEC. 8. ENSURING THE SOLVENCY OF THE SOCIAL SECURITY AND
MEDICARE TRUST FUNDS.**

SEC. 9. PROTECTION OF SOCIAL SECURITY AND MEDICARE BENEFITS.

TITLE I--COASTAL IMPACT ASSISTANCE AND STEWARDSHIP

SEC. 101. DEFINITIONS.

SEC. 102. COASTAL IMPACT ASSISTANCE.

SEC. 31. COASTAL IMPACT ASSISTANCE.

SEC. 103. OCEAN AND COASTAL CONSERVATION.

SEC. 32. OCEAN AND COASTAL CONSERVATION.

SEC. 104. CORAL REEF PROTECTION.

TITLE II--LAND AND WATER CONSERVATION FUND

SEC. 201. SHORT TITLE.

SEC. 202. LAND AND WATER CONSERVATION FUND AMENDMENTS.

SEC. 203. ALLOCATION OF AMOUNTS FOR STATE PURPOSES.

SEC. 204. STATE PLANNING.

SEC. 205. ASSISTANCE TO STATES FOR OTHER PROJECTS.

SEC. 206. CONVERSION OF PROPERTY TO OTHER USE.

SEC. 207. FEDERAL LAND ACQUISITION.

TITLE III--WILDLIFE CONSERVATION AND RESTORATION

SEC. 301. DEFINITIONS.

SEC. 2. DEFINITIONS.

SEC. 302. WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.

SEC. 303. STATE APPORTIONMENTS.

TITLE IV--URBAN PARK PROGRAM

**SEC. 401. TREATMENT OF AMOUNTS TRANSFERRED FROM THE
CONSERVATION AND**

REINVESTMENT ACT FUND.

**SEC. 1013. TREATMENT OF AMOUNTS TRANSFERRED FROM
CONSERVATION AND**

REINVESTMENT ACT FUND.

SEC. 402. AUTHORITY TO DEVELOP NEW AREAS AND FACILITIES.

SEC. 403. DEFINITIONS.

SEC. 404. ELIGIBILITY.

SEC. 405. GRANTS.

SEC. 406. RECOVERY ACTION PROGRAMS.

SEC. 407. STATE ACTION INCENTIVES.

SEC. 408. CONVERSION OF RECREATION PROPERTY.

SEC. 1010. CONVERSION OF RECREATION PROPERTY.

SEC. 409. REPEAL.

TITLE V--HISTORIC PRESERVATION

SEC. 501. HISTORIC PRESERVATION FUND AMENDMENTS.

SEC. 502. AMERICAN BATTLEFIELD PROTECTION PROGRAM AMENDMENTS.

TITLE VI--NATIONAL PARK AND INDIAN LAND RESTORATION PROGRAMS

SEC. 601. NATIONAL PARK SYSTEM RESOURCE PROTECTION.

SEC. 602. INDIAN LANDS RESTORATION.

TITLE VII--CONSERVATION EASEMENTS AND RURAL DEVELOPMENT

SEC.701. FARM AND RANCH LAND PROTECTION PROGRAM.

SEC. 702. FOREST SERVICE RURAL DEVELOPMENT.

SEC. 21. RURAL DEVELOPMENT.

SEC. 703. NON--FEDERAL LANDS OF REGIONAL OR NATIONAL INTEREST.

SEC. 704. MAPPING EXISTING CONSERVATION EASEMENTS.

September 14, 2000

APPENDIX G

SENATE CONCURRENT RESOLUTION 68

1-1 **WHEREAS, Major portions of Texas have endured nature's wrath**
1-2 **in the weather extremes of the 1990s; and**

1-3 **WHEREAS, In October, 1998, historic floods occurred across**
1-4 **much of South Texas; and**

1-5 **WHEREAS, Governor Bush declared a state of disaster in 22**
1-6 **counties; and**

1-7 **WHEREAS, President Clinton concurred and by presidential**
1-8 **declaration authorized federal aid; and**

1-9 **WHEREAS, The general public, municipalities, and counties all**
1-10 **endured major losses; and**

1-11 **WHEREAS, Local officials have expended considerable time and**
1-12 **energy completing disaster documentation for submittal to the**
1-13 **Division of Emergency Management, Federal Emergency Management**
1-14 **Agency, and Natural Resource Conservation Service; and**

1-15 **WHEREAS, The Lyndon B. Johnson School of Public Affairs at**
1-16 **The University of Texas at Austin has been involved with the City**
1-17 **of Cuero concerning their housing issues caused by this disaster;**
1-18 **and**

1-19 **WHEREAS, Due to the magnitude of the disaster, the**
1-20 **legislature approved and added \$16.3 million to the emergency**
1-21 **appropriations bill to assist local communities with state funds**
1-22 **necessary to match federal dollars; and**

1-23 **WHEREAS, Difficulties have occurred in coordinating the**
1-24 **disaster-related activities of local, state, and federal**

2-1 **representatives, and this lack of coordination has caused the**
2-2 **general public great hardship; now, therefore, be it**

2-3 **RESOLVED, That the 76th Legislature of the State of Texas**
2-4 **hereby create a blue ribbon study to examine ways to improve**
2-5 **coordination among the Texas Natural Resource Conservation**
2-6 **Commission, the Texas Water Development Board, the Small Business**
2-7 **Administration, volunteer organizations, the Division of Emergency**
2-8 **Management, the General Land Office, and the Texas Department of**
2-9 **Transportation in mitigating damage by taking action before, as**
2-10 **well as providing disaster assistance after, flooding and other**
2-11 **natural disasters and to streamline the provision of disaster**
2-12 **assistance, including the use of cost-effective technologies to**
2-13 **facilitate service; and, be it further**

2-14 **RESOLVED, That the committee consist of representatives from**
2-15 **the Texas Department of Transportation, Texas Natural Resource**
2-16 **Conservation Commission, Texas Water Development Board, General**
2-17 **Land Office, and Division of Emergency Management as well as**
2-18 **municipalities, counties, and river authorities, with the Division**
2-19 **of Emergency Management serving as chair; and, be it further**

2-20 **RESOLVED, That appropriate federal agencies act as a resource**
2-21 **to the committee as necessary and that the Lyndon B. Johnson School**
2-22 **of Public Affairs, The University of Texas at Austin, may also act**
2-23 **as a resource to the committee as necessary; and, be it further**

2-24 **RESOLVED, That the committee deliver the study to the 77th**
2-25 **Legislature with recommendations when it convenes in January, 2001.**